



Lane Regional Air Protection Agency (LRAPA)
Request for Rulemaking Hearing
September 14, 2017
Board of Director's Meeting
Staff Report - Rulemaking Action Item

LRAPA 2017 Industrial Air Permitting Rules

This file contains the following documents:

- Staff Report
- [Attachment A1: Draft rules](#)
- [Attachment A2: Board Roadmap](#)

Overview

Short summary

LRAPA recommends that the Board of Directors adopt the proposed air permitting rules as part of LRAPA's Rules and Regulations.

Brief history

LRAPA proposes to streamline, reorganize and update Lane County's air quality permit rules.

LRAPA also proposes changes to particulate matter emission standards and the preconstruction permitting program to make rules at least as stringent as the state's.

In addition, LRAPA proposes rules to:

- Remove certain greenhouse gas permitting requirements to align with the June 23, 2014 Supreme Court decision,
- Expand preconstruction permitting flexibility for small facilities, and
- Specify small source permitting exemptions

The Board was updated by DEQ on their corresponding rule changes at the June 23, 2014 Board meeting. LRAPA's permitted sources and interested parties list were sent notifications about DEQ's proposed permit changes during their comment period. At their April 2014 meeting, the LRAPA Citizen's Advisory Committee (CAC) received updates from DEQ on their corresponding rule changes. DEQ adopted their corresponding rules on April 15, 2015. LRAPA provided a summary of these changes at the May 2017 CAC meeting.

This document describes the proposed rules under the following eight categories:

1. Clarify and update air quality rules
2. Update particulate matter emission standards
3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment
4. Establish two new state air quality area designations, “sustainment” and “re attainment,” to help areas avoid and more quickly end a federal nonattainment designation
5. Designate Oakridge as a state reattainment area while retaining its federal nonattainment designation
6. Change the New Source Review preconstruction permitting program
7. Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting and delete an unused category
8. Increase Air Contaminant Discharge Permit (ACDP) fees by 10% and change the annual increase from the Consumer Price Index (CPI) to 4%.

Regulated parties

The proposed rules affect:

- All businesses, agencies, local governments and other entities holding air quality permits; and
- Businesses and other entities required to submit construction approval notices;

Rule Options

Some of the proposed rules must be adopted by LRAPA to maintain rules that are at least as stringent as the corresponding state and/or federal rules. In other areas, LRAPA has options to adopt rules that are different from state permitting requirements. Attachment A2 – Board Roadmap outlines the key areas of the rules with each significant section identifying the proposed rule change need as “stringency”, “consistency”, and “other”.

Statement of need

1. Clarify and update air quality rules	
After years of rulemakings and updates, LRAPA proposes to clarify, update and reorganize the air quality rules. Previous improvements to these programs began with the Board’s adoption of revisions to point source air management rules in 2008 and PM _{2.5} and greenhouse gas permitting updates in 2011. The existing rules contain multiple definitions for the same term, missing details, obsolete or outdated rules and rules that do not align with federal rules adopted by the U.S. Environmental Protection Agency, which causes confusion. This proposal would clarify and update the rules to address the needs listed in this table.	
What need would the proposed rules address?	How would the proposed rules address the need?
Some important details are missing from the rules, such as specific compliance methods for determining compliance with an emission standard. This creates uncertainty for LRAPA and regulated parties implementing the air quality programs.	The proposed rules would incorporate the missing compliance methods and help businesses understand how to comply with the standards.
Some procedures are in definitions rules instead of procedural rules, creating confusion for regulated	The proposed rules would move procedures from definitions rules to procedural rules.

1. Clarify and update air quality rules	
<p>parties. For example, the procedures to determine a major modification, actual emissions and netting basis are in the definitions rules instead of procedural rules.</p>	
<p>The rules contain different definitions for the same term and definitions are located in multiple titles, making it difficult for regulated parties to find definitions or know how to apply the definitions.</p>	<p>The proposed rules would move all common definitions to Title 12, Definitions. The proposed rules would provide only one definition per term and add definitions for undefined terms such as control efficiency, internal combustion engine and removal efficiency.</p>
<p>The excess emission rules do not contain all of the sources required to report excess emissions. They also do not contain source specific criteria for determining enforcement action.</p> <p>The excess emission rules require sources to report excess emissions to LRAPA as follows:</p> <ul style="list-style-type: none"> • Large sources must report all excess emissions immediately (within one hour of the event) <p style="padding-left: 20px;">A “large” source is defined as any Title V source, any source whose emissions are equal to or exceed 100 tons per year of any regulated air pollutant, or which is subject to a National Emissions Standard for Hazardous Air Pollutants.</p> <ul style="list-style-type: none"> • Small sources must notify LRAPA immediately only of excess emissions events that could endanger public health. <p style="padding-left: 20px;">A “small” source means any other stationary source with a Basic, General, Simple or Standard Air Contaminant Discharge Permit. In the definition of “small” sources in the excess emission rules, LRAPA inadvertently did not include sources that are on Basic permits.</p> <p>Since the Board’s initial adoption of the excess emission rules, EPA adopted NESHAPs for many smaller sources, such as gas stations, hospital ethylene oxide sterilizers, and dry cleaners. These</p>	<p>The proposed rules would add omitted sources required to report excess emissions and add the criteria for determining whether to take enforcement action for excess emissions, including</p> <ul style="list-style-type: none"> • Whether any federal New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants apply and whether the excess emission event caused a violation of the federal standard; and • Whether the excess emissions event was due to an emergency.

1. Clarify and update air quality rules

sources are missing from LRAPA's rules, creating conflict between LRAPA's rules and federal law.

The general provisions for NESHAP sources and some individual NESHAPs include excess emission reporting; therefore, LRAPA's rules do not need to include these small sources with the large sources that are required to report excess emissions immediately.

Source-specific technology-based standards such as federal New Source Performance Standards and NESHAPs consider the achievable emissions of a facility that uses best demonstrated technology. Adding this criterion when determining whether to take enforcement action for excess emissions allows LRAPA to recognize that while a source may violate the general statewide standard, the source is still complying with the source-specific technology-based standard.

The excess emission rules allow affirmative defense in incorrect circumstances. Affirmative defense is the ability to avoid civil penalties for violations. On Feb. 12, 2013, EPA proposed a new rule limiting the circumstances in which sources could claim affirmative defenses, and clarifying how such provisions may apply under Title V permits versus other permits under the SIP. Under EPA's interpretation, LRAPA's excess emissions rules incorrectly allow all permitted sources to assert an affirmative defense, rather than just Title V sources.

In addition, LRAPA proposes to limit affirmative defenses to Title V permitted sources only and not sources that are regulated under the State Implementation Plan.

DEQ updated the Source Sampling Manual Volumes 1 and II and the Continuous Monitoring Manual in 2015.

LRAPA worked with DEQ to update the manuals as part of the 2015 rulemaking. LRAPA proposes to adopt the updated versions. The manuals were last updated in 1992.

2. Update particulate matter emission standards

LRAPA proposes more stringent particulate matter standards to help prevent violations of the federal fine particulate standard.

Like many other states, Oregon adopted statewide particulate matter standards in 1970 as part of Oregon's initial State Implementation Plan. Since 1970, health researchers have concluded that exposure to particulate pollution is more harmful than previously indicated. As a result, EPA

2. Update particulate matter emission standards

lowered the ambient air quality standard for particulates from 260 micrograms per cubic meter; it established separate standards, including a coarse particulates standard at 150 micrograms per cubic meter and a fine particulates standard at 35 micrograms per cubic meter.

EPA designates areas that violate air quality standards as nonattainment areas and designates all other areas as attainment or unclassified areas. With EPA's adoption of the fine particulate ambient air quality standard in 2011, Klamath Falls and Oakridge are now designated as nonattainment areas for fine particulate. Lakeview also violates the standard, but was not designated nonattainment because its data was not available at the time EPA designated Klamath Falls and Oakridge. Numerous other areas in Oregon are only slightly below the standard. More stringent state particulate matter standards may help prevent additional violations of the federal fine particulate standard in the future, especially if EPA continues to lower the standard.

Oregon's initial State Implementation Plan included less protective emission standards for businesses that were in operation in 1970; these are known as grandfathered businesses. However, emissions from grandfathered businesses subject to the particulate matter standards do not adequately protect air quality. Routine exposure to air pollution at these levels can cause significant adverse health impacts to sensitive individuals.

LRAPA relies on two types of general standards to control emissions from permitted sources of particulate matter such as dust or smoke. One type of standard sets concentration-based emission limits as mass per unit volume of exhaust gas. A second type of standard, referred to as a visible emissions standard, limits the maximum visual density, or opacity, of a plume. Existing rules include different particulate concentration and opacity standards for units installed before or after 1970:

Pre-1970 unit 0.2 grain/dry standard cubic foot (gr/dscf) and 40 percent opacity

Post-1970 unit 0.1 gr/dscf and 20 percent opacity

What need would the proposed rules address?	How would the proposed rules address the need?
Update particulate matter emission rules to be at least as stringent as the Oregon DEQ's.	Adopting the opacity and grain loading standards would align LRAPA's rules with the state's.
LRAPA rules conflict with federal guidance and DEQ's updated rules. LRAPA's current particulate matter standards have only one significant figure (e.g., 0.1 gr/dscf) whereas EPA expects all standards to have two significant figures (e.g., 0.10 gr/dscf) when comparing measured emissions data to the standards.	The proposed rules add a significant figure to all particulate matter standards to align with the EPA guidance that standards have two significant figures. The intent of the proposed rules is to ensure that Oregon's particulate standards are consistent with current EPA policy for significant figures when determining compliance with standards.
LRAPA's rules do not contain a reference method necessary to demonstrate compliance with opacity standards.	The proposed rules would help ensure Oregon businesses use a reliable and defined method to measure compliance with statewide opacity standards that are consistent with EPA and other states' methods.

2. Update particulate matter emission standards

Oregon and LRAPA based its first adopted opacity standard on an aggregate of three minutes in a 60-minute period. However, LRAPA and DEQ didn't develop a reference test method for the three-minute aggregate limit. As a workaround to demonstrate compliance with this standard, Oregon businesses used a modified version of EPA's Method 9 reference test method; however, this workaround is inconsistent with EPA and other states' methods. DEQ decided to change their opacity test method to the straight EPA Method 9 and go with the more common 6-minute aggregate basis for the standard. LRAPA prefers to retain the 3-minute aggregate basis, but will add language to specify the data reduction method needed to specify the reference method.

Not having reference methods for these opacity standards makes it difficult for businesses to demonstrate compliance with the standards, and creates difficulty for LRAPA to assure compliance with and enforce the standards.

LRAPA needs to revise the method for addressing opacity from fugitive emission sources to be as stringent as DEQ's corresponding rule.

LRAPA and businesses currently use EPA Method 9 to determine compliance with opacity standards and ensure fugitive emissions are not causing a nuisance, but this method isn't specific for fugitive sources. Fugitive particulate matter emissions are not emitted from a smoke stack and typically originate from storage piles, material conveying systems, unpaved roads or other dusty activities. In many situations, it is possible to take opacity readings to determine if the emitting source exceeded the opacity standard and then require action to abate the emissions. However, in other situations, opacity readings are difficult to take or the emissions do not exceed the opacity standard, but are nevertheless objectionable to surrounding neighbors. Therefore, rules are needed to control fugitive emissions from leaving a business's property, regardless of their opacity.

The proposed rules would amend all opacity standards, both statewide and industry specific, to retain the 3-minute aggregate limit but specify the data reduction method needed to evaluate opacity. This 3-minute aggregate basis is preferred by senior inspector staff, especially for evaluating opacity on batch operations. LRAPA does not expect this to change the overall stringency of the standards.

LRAPA's rules would retain the 3-minute aggregate basis for the standard and specify EPA's Method 203B as the reference method data reduction procedures to measure 3-minute aggregate periods.

The proposed rules would align LRAPA's rules with DEQ's rules to require businesses to take reasonable precautions to prevent fugitive emissions. LRAPA may request a business develop and implement a fugitive emissions control plan to prevent visible emissions from leaving the property for more than 18 seconds in a six minute period. This is a simpler, more comprehensive and effective approach to controlling these emissions than the current approach that requires LRAPA to make a nuisance determination outside of special control areas. LRAPA and businesses would use EPA Method 22, Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares to determine compliance. Method 22 is specific for fugitive sources, making it a much better method for determining compliance than Method 9.

3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment

Federal law requires Title V permits to account for emissions from all activities at a regulated facility, including insignificant activities that do not warrant the kind of effort applied to the main emitting activities. When Oregon established the Title V permitting program in 1993, DEQ developed a list of “categorically insignificant activities” that may take place at a source but are not addressed individually in the permit; LRAPA incorporated that list into title 12. This list includes activities such as:

- Janitorial activities
- Groundskeeping activities
- Emergency generators

Businesses indicate they have categorically insignificant activities in their permit applications, but these activities are exempt from rigorous monitoring requirements because DEQ and LRAPA determined emissions from these activities are insignificant compared to other activities onsite.

LRAPA proposes to change the activities to align the rules with DEQ’s.

What need would the proposed rules address?	How would the proposed rules address the need?
<p>EPA recently adopted National Emission Standards for Hazardous Air Pollutants for stationary reciprocating internal combustion engines. EPA’s adoption added requirements for emergency generators currently exempt from permitting in Lane County because LRAPA lists them as categorically insignificant activities. In addition, the growing need for large amounts of backup power from emergency generators at data centers has shown that emissions from emergency generators can be significant.</p> <p>LRAPA also determined that small fuel burning equipment, currently listed as categorically insignificant because each unit has low emissions, could have significant aggregate emissions if a business has multiple units. For example, one business has been identified that has eight small boilers that together have significant potential emissions of approximately 12 tons per year of nitrogen oxides.</p>	<p>The proposed rules would remove emergency generators and small natural gas or oil-fired equipment from the list of categorically insignificant activities if:</p> <ul style="list-style-type: none"> • Those units are above size thresholds that make them subject to emission limits, or • Their aggregate emissions are greater than de minimis levels. <p>LRAPA would add these activities to existing permits.</p> <p>In cases where emissions from a non-permitted business with these activities exceed permitting thresholds, the non-permitted business might need to obtain a permit for these activities alone. If the aggregate emissions are less than permitting thresholds, the owner or operator may only need to obtain preconstruction approval from LRAPA when installing new units and not a permit.</p>

4. Establish two new state air quality area designations, “sustainment” and “re attainment,” to help areas avoid and more quickly end a federal nonattainment designation

LRAPA proposes to change the activities to align the rules with DEQ’s.

EPA designates areas that violate air quality standards as “nonattainment” areas and designates all other areas as “attainment” or “unclassified” areas. Oregon law designates former nonattainment areas that EPA reclassified to attainment as “maintenance” areas to ensure those areas avoid future violations. LRAPA proposes to establish two new Oregon air quality area designations, “sustainment” and “re attainment,” to help areas avoid and more quickly end a federal nonattainment designation. If the Board approves these proposed rules, it would be able to designate specific areas of the county as “sustainment” or “re attainment” based on a local air quality analysis and public comment. To designate a specific area as “sustainment” or “re attainment” would require public notice and a rule change. These designations would provide communities and businesses with additional tools and incentives to improve air quality. Please view LRAPA’s Oakridge’s Re attainment Area document for supplemental information about the sustainment area designation.

What need would the proposed rules address?	How would the proposed rules address the need?
<p>There are gaps in the current designation system, described in the next two sections, that can create disincentives for affected communities to improve air quality and unnecessarily impede economic development. While EPA does not establish designations for these areas, there is a need for LRAPA to establish designations to help these areas avoid and more quickly end a federal nonattainment designation.</p>	<p>The proposed rules would establish two new designations with different permitting requirements for companies proposing a new or modified facility in areas that are close to or violating air quality standards:</p> <ul style="list-style-type: none"> • Sustainment area for a federally designated attainment area that is in danger of failing to meet air quality standards and which EPA has not yet designated a nonattainment area. • Re attainment area for a federally designated nonattainment area that is meeting air quality standards and which EPA has not yet redesignated an attainment area. <p>The Board would designate specific areas of the state as sustainment or re attainment based on a local air quality analysis, LRAPA recommendations and public comment. These classifications would provide communities and businesses with additional tools and incentives to improve air quality, as described below.</p>

4. Establish two new state air quality area designations, “sustainment” and “reattainment,” to help areas avoid and more quickly end a federal nonattainment designation

<p>Communities are not provided sufficient opportunities to avoid nonattainment designation.</p> <p>This first gap in area designations is for attainment areas where the air quality is in danger of failing to meet air quality standards. While air pollution in these areas can cause health effects, new or modified businesses are not necessarily the sources that contribute to the problem. However, air pollution levels in the area make it difficult or impossible for new and expanding businesses to demonstrate that their added emissions will not cause or contribute to air quality violations. The current permitting rules for attainment areas do not include provisions for these businesses to offset their emission increases by a reduction in emissions from existing sources in the area. Designating these areas as nonattainment areas may be appropriate in some cases. However, in other cases, a nonattainment designation could impose prescriptive federal requirements and timelines that interfere with the more effective local efforts to improve air quality.</p>	<p>Establishing sustainment areas would provide communities more opportunities to avoid nonattainment designation.</p> <p>The proposed rules would allow LRAPA to work with the local community to determine if a state sustainment designation would be the best approach to improve air quality and prevent a nonattainment designation. LRAPA would identify potential sustainment areas based on an air quality analysis that may include monitoring, development of an emission inventory, and air quality modeling. The analysis would identify the air pollution sources that primarily contribute to public health concerns, and a boundary for the potential sustainment area. Upon approval by the local community, LRAPA would then propose the sustainment designation for public comment through its rulemaking process.</p> <p>A Board-designated sustainment area would remain a federal attainment area and new and modified facilities above the federal major source threshold would continue to be subject to federal attainment area requirements. However, the proposed rules for sustainment areas would address industrial source emissions below federal major source thresholds that the community could rely upon as part of an overall plan, such as EPA’s PM Advance program, for improving the ambient air quality. Within a sustainment area, new and modified facilities would receive incentives to obtain emission offsets from those existing air pollution sources that are identified as the primary cause of degraded air quality in the sustainment area under category six below (Change the New Source Review preconstruction permitting program). An area designated as a sustainment area could still become a federal nonattainment if air quality continued to degrade.</p>
<p>Communities designated as nonattainment areas must continue to require costly elements of an attainment plan when those elements are no longer necessary to protect air quality.</p>	<p>Establishing reattainment areas would allow communities to discontinue costly elements of an attainment plan when those elements are no longer necessary to protect air quality.</p>

4. Establish two new state air quality area designations, “sustainment” and “re attainment,” to help areas avoid and more quickly end a federal nonattainment designation

This second gap in area designations is for nonattainment areas that have met federal ambient air quality standards by implementing an approved attainment plan. For these areas to be designated as federal attainment areas and state maintenance areas LRAPA must develop and EPA must approve a long-term air quality maintenance plan. In developing the maintenance plan, LRAPA may determine that some elements of the attainment plan are no longer required to maintain air quality. However, until EPA redesignates the area to attainment – a process that can take years – the area must continue implementing all elements of the attainment plan.

The proposed rules would allow LRAPA to propose to Board a state reattainment designation for a federal nonattainment area with an approved attainment plan where air quality reliably meets the federal ambient air quality standards. The potential for a reattainment area designation would create an incentive for a community to improve air quality as quickly as possible. The boundary for the reattainment area would be the same as the nonattainment area boundary.

A Board-designated reattainment area would remain a federal nonattainment area. All elements of the area’s attainment plan would continue to apply until EPA approves a maintenance plan and redesignates the area to attainment. However, within the reattainment area, new and modified facilities that fall below the federal major source threshold would be subject to less stringent requirements unless LRAPA has identified the facility as a significant contributor to the air quality problems in the area under category six below (Change the New Source Review preconstruction permitting program).

5. Designate Oakridge as a state reattainment area while retaining its federal nonattainment designation

Air quality in Oakridge currently meets the ambient air quality standards for fine particulates. However, EPA has not yet designated Oakridge an attainment area because it just recently attained the standard. LRAPA now has the required three years of monitoring data to determine if the area was violating the federal standards. Please view LRAPA’s Oakridge Reattainment Area document for supplemental information about the designation for Oakridge.

5. Designate Oakridge as a state reattainment area while retaining its federal nonattainment designation

What need would the proposed rules address?	How would the proposed rules address the need?
<p>Oakridge currently is designated as a nonattainment area for PM_{2.5}, but the area currently has three years of monitoring data showing that the area meets federal standards.</p> <p>It will take additional time to develop a maintenance plan and get the area approved to be redesignated from nonattainment to a “maintenance area”. The proposed rules would serve as a bridge between the nonattainment and maintenance area rules. There are currently no industrial sources in Oakridge for which offsets could be obtained; the proposed rules are designed to provide incentives for new or modified sources to obtain offsets from “priority” sources (i.e., residential wood combustion).</p>	<p>The proposed rules would designate Oakridge as a state reattainment area proposed under category four above. While Oakridge would retain its federal designation as a nonattainment area, a state designation of reattainment would help the community in its efforts to improve air quality by providing more flexible permitting requirements for non-federal major emission sources</p> <p>The Oakridge Reattainment Area document includes LRAPA’s Attainment Plan used to describe the area, it’s emissions, and plans for how the area will meet federal standards for PM_{2.5}.</p>
<p>Designating Oakridge as an attainment area with a maintenance plan will take much more time than it will to designate the area as a reattainment area under the proposed rules and would make it much more difficult for sources to locate or expand in Oakridge under the existing nonattainment rules.</p>	<p>The Attainment plan that has been developed for Oakridge outside the rulemaking process will address all PM_{2.5} emission sources, including residential wood stoves and open burning. LRAPA determined that the Attainment plan and designation as a reattainment area would complement each other to address stationary sources within the Oakridge area.</p> <p>Under the reattainment area designation, new and expanding businesses that do not exceed the federal major source threshold for particulate matter could be permitted by obtaining offsets under category six below (Change the New Source Review preconstruction permitting program). As an incentive, the offset requirement would be lowered for businesses that obtain offsets from residential wood heating, which is the primary cause of air quality violations in Oakridge.</p>

6. Change the New Source Review preconstruction permitting program

LRAPA proposes changes to the New Source Review program to improve air quality in all areas of the county, especially those that are close to or exceed ambient air quality standards. New Source Review is a federally required preconstruction program that ensures new or modified facilities install the latest control technologies and do not have adverse impacts on ambient air quality standards. The intent of the Prevention of Significant Deterioration portion of the New Source Review program is to prevent degradation of air quality in areas that meet federal air quality standards. The intent of the nonattainment New Source Review program is to improve the air quality in designated nonattainment areas that violate air quality standards. LRAPA’s proposal would maintain consistency with DEQ by also establishing New Source Review requirements for the proposed new sustainment and reattainment area designations described in category four above.

On June 23, 2014, the U.S. Supreme Court determined that the Clean Air Act neither compels nor permits EPA to adopt rules requiring a facility to obtain a Title V or Prevention of Significant Deterioration permit on the sole basis of its potential greenhouse gas emissions. LRAPA’s rules were not affected by the Supreme Court’s decision and remain in effect, requiring facilities to submit applications that are not required by the now-invalid federal greenhouse gas permitting rules. The Court did not completely invalidate EPA’s authority to require permitting for greenhouse gases; it determined that EPA reasonably interpreted the Clean Air Act to require facilities to comply with Prevention of Significant Deterioration permitting requirements for greenhouse gases if they were required to apply for a Prevention of Significant Deterioration permit based on emissions of other regulated pollutants. Please view DEQ’s NSR Program Supplemental Discussion for supplemental information about these changes.

What need would the proposed rules address?	How would the proposed rules address the need?
<p>The current New Source Review program rules apply to facilities that emit more than the federal major source threshold and to some facilities that emit less. Federal law requires states to have both a major and a minor New Source Review program. The requirements for the federal major New Source Review program are very prescriptive. States and local agencies have more flexibility in designing a minor New Source Review program if the state/local demonstrates that it will protect air quality. LRAPA’s current requirements for major and minor New Source Review are the same. This limits LRAPA’s ability to use the minor New Source Review program in the most effective way to protect air quality while enabling economic development.</p>	<p>The proposed rules for new and modified facilities would distinguish facilities above the federal major source threshold from facilities below the threshold. To do this, the proposed rules would:</p> <ul style="list-style-type: none"> • Establish a minor New Source Review program for smaller facilities called “State New Source Review.” • Tailor New Source Review requirements for smaller facilities to the air quality needs of an area in ways that are not allowed for larger businesses subject to EPA requirements.
<p>Current criteria for determining if a major new or modified facility would improve air quality in or near a nonattainment or maintenance area are known as Net Air Quality Benefit. Problems with the criteria include:</p>	<p>The proposed rules would establish a new process for companies proposing a new or modified facility in or near a nonattainment, sustainment or maintenance area. The proposal provides a simplified modeling demonstration</p>

6. Change the New Source Review preconstruction permitting program	
<ul style="list-style-type: none"> • Based solely on air quality modeling, • Sometimes impossible for businesses to meet, unless the increasing and offsetting businesses are co-located, • Prevent potentially more beneficial local air pollution reduction projects from occurring, thereby creating an unnecessary construction ban, and • Require new or modified businesses to reduce emissions from other existing businesses and demonstrate that together the emission increases and reductions result in improved air quality at most modeled receptors within the area. 	<p>that requires emission offsets to be greater than emission increases. The offset ratio would depend on:</p> <ul style="list-style-type: none"> • The area classification, and • Whether the new or modified source of emissions is a federal major source or minor source. <p>The proposed rules would provide incentives for new or modified businesses to help address ambient air quality problems. The incentives would reduce the emission-offset ratio if the business obtains reductions from priority sources, those that primarily cause air quality problems in the local area. In addition, the proposed rules would ensure no degradation of air quality in relation to the ambient monitoring for the area.</p>
<p>The current New Source Review program rules allow extensions of construction permits for good cause. The rules do not include criteria for approving or denying extensions of construction permits or the number of extensions allowed. Allowing construction permits to be extended multiple times without limit or additional review could:</p> <ul style="list-style-type: none"> • Tie up the business's designated allowable emissions portion of the airshed indefinitely, • Result in the installation of less effective control technology if control technology has improved since the approval of the original construction permit, and • Unnecessarily impair air quality. 	<p>The proposed rules provide two 18-month extensions and procedures for requesting and approving extensions for New Source Review construction permits:</p> <ul style="list-style-type: none"> • For the first extension, the proposed rules would require a review of any new pollution control technologies that could be applied to the proposed source. • For the second extension, the proposed rules would require a review of the pollution control technology and a review of the impacts on the ambient air quality in the area.
<p>In 2011, the Board adopted rules substantively identical to the federal greenhouse gas permitting rules. The 2014 Supreme Court decision invalidated EPA's authority to impose the federal greenhouse gas permitting requirements. LRAPA's rules continue to require Prevention of Significant Deterioration and Title</p>	<p>The proposed rules would address the need by removing certain greenhouse gas permitting requirements to align with the 2014 Supreme Court Decision.</p>

6. Change the New Source Review preconstruction permitting program	
V permits for greenhouse gases alone, causing inequity for facilities located in Lane County.	

7. Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting and delete an unused category

LRAPA proposes two source activity cutoffs to exempt smaller sources from the need to obtain an ACDP. The existing rules currently require permits for sources using very small amounts of surface coatings and producing very small amounts of woodworking products. LRAPA is specifying small-source cutoffs for permit activities including:

- *Surface coating operations that use less than 100 gallons/year of VOC and/or HAP containing coatings;*
- *Sawmills and other wood products facilities that produce less than 5,000 board feet per maximum 8 hour finished product; and*
- *Wood preserving (including waterborne solutions with actual or projected emissions of greater than 1 ton/year VOC and/or HAP).*

To clarify the third bullet above, prior to the rule changes adopted in 2008 LRAPA’s rules required air quality permits for all types of wood preserving activities. LRAPA adopted changes in 2008 that added an exemption for waterborne wood preservation operations. LRAPA is now removing that exemption, but is including a 1 ton/year VOC and/or HAP threshold above which sources would be required to obtain a permit.

LRAPA is asking for comment on the range of de minimis cutoffs for surface coating operations. The range LRAPA is considering is between 100 and 250 gallons per year. Based on 2016 annual reporting information seven (7) sources on Basic ACDPs would qualify to be exempt if the rules specified a 100 gallon/year and 5,000 board feet per shift exemption. If the lower source cutoff were specified at 250 gallon/year and 5,000 board feet per shift, a total of nine (9) sources would qualify to be exempt from permitting. The total reduction in annual fees would be \$2,926 and \$3,762, respectively, for each option of de minimis cutoffs for surface coating operations.

The Basic ACDP activity category for surface coating operations subject to the “autobody” NESHAP using less than 20 gallons/year is unused since it was adopted in 2008, and is proposed to be deleted.

What need would the proposed rules address?	How would the proposed rules address the need?
Some of the sources currently required to have an air permit under the surface coating and woodworking activity categories are very small businesses that generally do not emit significant amounts of regulated pollutants. They often have difficulty paying fees and completing annual reports, etc.	<p>The rules would address the need by specifying that permit for surface coating activities is only required if actual or projected usage of VOC containing coatings is greater than 100 gallons/<u>year</u>. By comparison, DEQ only requires permits for surface coating operations with usages of more than 250 gallons/<u>month</u>.</p> <p>The rules would also address the need by specifying that permit for wood working activities</p>

7. Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting and delete an unused category

	<p>is only required if actual or projected production is greater than 5,000 board feet per shift. By comparison, DEQ only requires permits for wood working sources with productions of more than 25,000 board feet per shift.</p> <p>These two changes are estimated to relieve the permitting requirements for at least seven (7) to nine (9) sources currently on a Basic ACDP.</p>
<p>LRAPA has determined that facilities that perform waterborne wood preservation activities can have relatively significant emissions of VOCs and or HAPs. LRAPA's (and DEQ's) rules currently only require an air permit for waterborne wood preservation activities if actual emissions are greater than 10 tons/year of VOC.</p>	<p>The rules would require air permitting for waterborne wood preservation activities if actual or projected emissions are greater than one ton/year VOC and/or HAP.</p>
<p>The following Basic ACDP category is unused and can be deleted:</p> <p><i>A.11 Motor Vehicle and Mobile Equipment Surface Coating Operations subject to an Area Source NESHAP and using less than 20 gallons of coating per year excluding motor vehicle surface coating operations registered pursuant to LRAPA 34-025-2.</i></p>	<p>The proposed change would remove the unused category and more closely align LRAPA's permitting requirements with DEQ's.</p>

8. Increase Air Contaminant Discharge Permit (ACDP) fees by 10% and Change the Annual Increase from the CPI to 4%

<p>The Board's Resources Committee recommended, and the Board approved a 10% increase in LRAPA ACDP fees, at the October 2016 Board of Directors meeting. The Board approved an annual 4% increase in ACDP fees on July 1st of each year in lieu of the current increase by the CPI.</p>	
<p>What need would the proposed rules address?</p>	<p>How would the proposed rules address the need?</p>
<p>The Board's Resources Committee recommended, and the Board approved a 10% increase in LRAPA ACDP fees, at the October 2016 Board of Directors meeting. The Board approved an annual 4% increase in ACDP fees on July 1st of each year in lieu of the current increase by the CPI.</p>	<p>LRAPA is proposing a 10% increase in ACDP fees over existing fee amounts and to change the annual ACDP fee increase on July 1st of each year from the CPI to 4%.</p>

How will LRAPA know the rules have addressed the needs stated above?

To determine whether the rulemaking met its objectives, LRAPA would confirm, as part of ongoing interaction with regulated parties, whether regulated parties have a clearer understanding of the program and their obligations. LRAPA expects to see a reduction in the number of business that request help interpreting the rules.

LRAPA expects to see an improvement in air quality, which could result in fewer nonattainment areas, based on the following reductions in emissions from:

- Updates to the particulate matter standards;
- Offsets of priority sources causing air quality problems in areas that chose to become sustainment areas;
- Changes to the New Source Review preconstruction permitting program,

LRAPA expects to have more flexibility in how LRAPA provides notice of proposed permits, public meetings and hearings, more participation from the public and reduced costs.

If LRAPA adopts the proposed rules after considering public comments, LRAPA would submit the rules to the EQC for inclusion into Oregon's State Implementation Plan (SIP). If approved by the EQC, the rules would be submitted to the EPA for publishing the changes in the Federal Register and include the changes into the SIP. LRAPA would know the goals of this rulemaking have been addressed when the EQC and EPA review and approve the State Implementation Plan revision.

Rules affected, authorities, supporting documents

Lead division
Operations

Program or activity
Permitting

Adopt LRAPA Section:

12-025, 14-145, 14-147, 14-150, 14-155, 29-0300, 29-0310, 29-0320, 32-8010, 34-017, 33-500, 37-0068, 38-0025, 38-0045, 38-0055, 38-0245, 38-0250, 38-0255, 38-0260, 38-0270, 38-0500, 38-0510, 38-0530, 38-0540, 42-0046, 42-0048, 42-0051, 50-065, 51-007, 51-011

Amend LRAPA Section:

12-001, 12-005, 12-010, 12-020, 14-110, 29-0010, 29-0020, 29-0030, 29-0040, 29-0050, 29-0060, 30-010, 31-0010, 31-0020, 31-0030, 31-0040, 31-0050, 31-0060, 31-0070, 31-0080, 32-001, 32-005, 32-006, 32-007, 32-008, 32-009, 32-010, 32-015, 32-020, 32-030, 32-045, 32-050, 32-055, 32-060, 32-065, 32-070, 32-075, 32-0100, 33-005, 33-060, 33-065, 33-070, 33-075, 33-080, 34-005, 34-010, 34-015, 34-020, 34-025, 34-030, 34-034, 34-035, 34-036, 34-037, 34-038, 34-170, 34-180, 34-190, 34-200, 35-0010, 35-0110, 35-0120, 35-130, 35-0140, 35-0200, 35-0210, 35-0220, 35-0230, 35-0240, 35-0250, 35-0260, 35-0270, 35-0280, 36-001, 36-005, 36-010, 36-015, 36-020, 36-025, 36-030, 36-040, 37-0010, 37-0020, 37-0025, 37-0030, 37-0040, 37-0052, 37-0054, 37-0056, 37-0060, 37-0062, 37-0064, 37-0066, 37-0070, 37-0082, 37-0084, 37-0090, 37-0094, 38-0010, 38-0020, 38-0030, 38-0040, 38-0050, 38-0060, 38-0070, 40-0010, 40-0020, 40-0030, 40-0040, 40-0045, 40-0050, 40-0060, 40-0070, 41-0020, 41-0030, 42-0010, 42-0020, 42-0030, 42-0035, 42-0040, 42-0041, 42-0042, 42-0055, 42-0060, 42-0080, 42-0090, 48-001, 48-005, 48-010, 48-015, 49-

005, 49-010, 49-020, 49-030, 50-001, 50-005, 50-015, 50-025, 50-030, 50-035, 50-040, 50-045, 50-050, 50-055, 51-005, 51-010, 51-015, 51-020, 51-025,

Amend and Renumber LRAPA Section:

14-140 renumbered to 14-115
14-145 renumbered to 14-120
14-150 renumbered to 14-125
14-155 renumbered to 14-130
14-160 renumbered to 14-135
14-175 renumbered to 14-140
14-200 renumbered to 14-160
14-205 renumbered to 14-165
14-210 renumbered to 14-170
14-220 renumbered to 14-175
14-235 renumbered to 14-185
14-240 renumbered to 14-190
14-245 renumbered to 14-200
14-250 renumbered to 14-205
35-0160 renumbered to 34-016
37-0020 Table 1 renumbered to 37-8010
37-0020 Table 2 renumbered to 37-0820
38-0080 renumbered to 38-0034
38-0100 renumbered to 38-0038
40-0090 renumbered to 38-0520
49-040 renumbered to 32-050

Repeal LRAPA Section:

14-120, 14-170, 14-180, 14-225, 14-230, 32-080, 32-095, 33-020, 33-030, 33-045, 34-040, 34-080, 34-160, 42-0070, 49-050, 50-020

Statutory authority

ORS 192, 468, and 468A

Statute implemented

ORS 183, 192, 468, 468A, 477

Legislation

NA

Documents relied on for rulemaking ORS 183.335(2)(b)(C)

Document title	Document location
StaffReportApril2015EQC	http://www.oregon.gov/deq/EQCdocs/0415ItemJReport.pdf
EPA Method 203B – Visual Determination of Opacity Emissions From Stationary Sources for Time-Exception Regulations	https://www3.epa.gov/ttnemc01/promgate/m203B.pdf
Code of Federal Regulations	http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR
Federal Register	http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR
Oregon Administrative Rules	http://www.oregon.gov/deq/Regulations/Pages/Administrative-Rules.aspx
Oregon Revised Statutes	http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx
LRAPA Rules and Regulations	http://www.lrapa.org/205/Rules-Regulations

Fee Analysis

The proposed rules would increase existing fees, with the exception of greenhouse gas reporting fees which would remain the same or be reduced by the proposed rules. The Board authority to act on the proposed fees is ORS 468A.050 and 468A.135.

LRAPA's air contaminant discharge permit program administers federal health standards, air toxic requirements and other regulations to reduce the number of unhealthy air days and health risks from air toxics. The program issues, renews or modifies permits to prevent or reduce air pollution through permit requirements. In addition, it ensures that existing pollution sources comply with state and federal air emissions standards and that new sources of air pollution install controls such as filtration equipment, combustion controls and vapor controls needed to protect air quality. Other essential services include State Implementation Plan development, emission inventories, technical assistance, inspections, enforcement, rule and policy development, data management and reporting to EPA.

Brief description of proposed fees

The proposed rules would:

- Increase all air contaminant discharge permit fees in Title 37, Table 2 by 10 percent.
- Change the annual air contaminant discharge permit fee increase from the CPI to 4%.
- Reduce greenhouse gas reporting fees from 15 percent to 12.5 percent for air contaminant discharge permit holders.

Reasons

The proposed rules would address:

- The anticipated increase in the cost for goods and services for the next two years.
- Board Resources Committee concerns that the air contaminant discharge permit program have adequate funding and their recommended 10% increase in the fees and change from the CPI to 4% for the annual increase.
- The inconsistency of the fee for greenhouse gas reporting for air contaminant discharge permit holders that currently exists (LRAPA's is 15%, DEQ's is 12.5%).

Fee proposal alternatives considered

While developing the draft rules, LRAPA was notified of DEQ's intentions to increase their air contaminant discharge permit fees. DEQ considered a 22 percent across the board fee increase, but, subsequently as part of their April 2017 Fiscal Advisory Committee meeting, decided to pursue a 14 percent increase and create new fees for construction applications, permit renewal applications, and source test review. The new fees proposed by DEQ for certain construction applications, permit renewal applications, and source test reviews allowed them to propose an across the board increase of 14 percent fee increase instead of the 22 percent DEQ determined is needed to fund the air contaminant discharge permit program [*Note: as of this writing, the increased ACDP fees proposed by DEQ have not been adopted*]. LRAPA considered adopting fee changes like DEQ's proposed changes, but decided to simply apply a 10% increase in fees to avoid some of the complications involved with the new fees proposed by DEQ.

Fee Payers

There are approximately 280 businesses that hold air contaminant discharge permits or are registered with the permit program, such as dry cleaners and auto body shops.

There are approximately 30 businesses that hold either an air contaminant discharge permit or Title V permit that pay greenhouse gas reporting fees.

Affected party involvement in fee-setting process

LRAPA's Board held a Resources committee meeting(s) and LRAPA's Citizen's Advisory Committee (CAC) considered the changes prior to public notice to determine LRAPA's need for additional resources.

Summary of impacts

LRAPA estimates the air contaminant discharge permit fee increase would affect:

- Eighty-one percent of the permit holders by increasing the annual fee in the range of \$44 to \$227,
- Eleven percent of the permit holders by increasing the annual fee in the range of \$232 to \$465, and
- Nine percent of the permit holders by increasing the annual fee in the amount of \$931.
- An additional proposed fee increase would affect about four percent of these permit holders each year by increasing the specific activity fee in the range of \$14 and \$5,088 per permit modification.

ACDP Revenue

The LRAPA fees for ACDP in fiscal year 2014-2015 were \$489,440; for fiscal year 2015-2016 the fees were \$450,893. The projected actual fees for fiscal year 2016-2017 are \$486,535. For the budget adopted for fiscal year 2017-2018, the fees are proposed to be \$490,430.

Fee Schedule

The fee table is included in the proposed rules under Title 37, Table 2.

Statement of fiscal and economic impact

[ORS 183.335 \(2\)\(b\)\(E\)](#)

Fiscal and Economic Impact

The proposed rules would have fiscal and economic impacts on the public, businesses, state agencies and units of local governments. LRAPA proposes to:

1. Streamline, reorganize and update air quality permit programs to improve air quality with more efficient and effective permitting programs,
2. Amend particulate matter standards and the preconstruction permitting program to help Lane County comply with EPA's adoption of the ambient air quality standard for fine particulate, also known as PM2.5 and respond to problems identified with LRAPA's permitting program that must be addressed to protect air quality,

3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment
4. Establish two new state air quality area designations, “sustainment” and “re attainment,” to help areas avoid and more quickly end a federal nonattainment designation
5. Designate Oakridge as a state re attainment area while retaining its federal nonattainment designation
6. Add preconstruction permitting flexibility for smaller facilities,
7. Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting and delete an unused category, and
8. Increase Air Contaminant Discharge Permit (ACDP) fees by 10% and change the annual increase from the CPI to 4%.

Statement of Cost of Compliance

This section organizes the cost of compliance by the eight categories of rule changes.

Impacts on state and federal agencies, local government and the public

1. Clarify and update air quality rules

The proposed rules to improve the organization and increase the clarity of the rules may have slight positive fiscal and economic impacts on state agencies, local governments and the public because the rules would be easier for people to understand. LRAPA lacks information to estimate individuals' time savings in using rules that are easier to understand. LRAPA expects the clarifications and updates would have no negative impacts except LRAPA's permitting staff would experience a slight workload increase until staff becomes familiar with the proposed rules followed by a workload decrease.

2. Update particulate matter emission standards

State and federal agencies and local government: The proposed particulate emission standards would have positive and negative fiscal and economic impacts on state agencies and local governments.

The proposed rules would create positive fiscal and economic impacts indirectly in the form of cost savings for LRAPA and Lane County communities. Reducing emissions before an area exceeds ambient air quality standards would help Lane County avoid additional nonattainment designations by EPA. As a result, LRAPA and Lane County communities could avoid the costs to develop and implement attainment plans for these areas. LRAPA is unable to estimate the cost savings because each plan is unique, but the recent plan for Oakridge took two years to develop and required resources from EPA, DEQ, LRAPA, the Citizen's Advisory Committee and other community members. LRAPA expects its permitting staff would experience a slight workload increase until staff becomes familiar with the proposed rules followed by a workload decrease.

The proposed rules would have no fiscal and economic impacts on state agencies and local governments holding permits because these facilities already meet the lower emission standards so none of these agency- or government-owned facilities would be required to make any changes to comply with the proposed rules. In Lane County, state agencies own zero (0) permitted facilities, federal agencies and tribes own zero (0) permitted facilities, and local governments own about 5 permitted facilities.

Public: LRAPA expects the proposed lower particulate matter standards would have no fiscal or economic impacts on the public directly. The proposed rules could affect the public indirectly if businesses change the price of goods and services to offset the costs of compliance. LRAPA expects any such price increases to be small but lacks available information to estimate potential increases accurately.

The proposed rules could create positive economic benefits and improvements in public health and welfare indirectly by reducing particulate matter emissions. Particulate matter causes serious health problems ranging from increased respiratory and pulmonary symptoms, hospital admissions and emergency room visits, to premature death for people with heart and lung disease. These health problems have negative economic impacts. LRAPA lacks available information to estimate the health and welfare benefits, but when EPA adopted the current 24-hour PM2.5 national ambient air quality standard in 2006, EPA estimated the following:

- The nationwide cost of meeting the revised 24-hour PM2.5 standards at \$5.4 billion in 2020. This estimate includes the costs of purchasing and installing controls for reducing pollution to meet the standard.
- The revised standards will yield \$9 billion to \$76 billion a year in health and visibility benefits in 2020. Health benefits include reductions in premature death, diseases and symptoms associated with fine particle pollution exposure.

3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment

State and federal agencies and local governments: The proposed changes to permitting requirements for emergency generators and small natural gas or oil-fired equipment would have a negative fiscal and economic impact on state agencies and local governments required to obtain a new permit for these generators or equipment. The initial cost to obtain a new permit is \$1,200 plus permit holders pay approximately \$1,300 in annual fees. However, LRAPA expects no state agencies and local governments would be required to obtain new permits as a result of the proposed rules because most facilities that have generators or equipment subject to the proposed rules already hold air quality permits. In Lane County, state agencies own zero (0) permitted facilities, federal agencies and tribes own zero (0) permitted facilities, and local governments own about five (5) permitted facilities.

If any state agencies and local governments that already hold air quality permits are subject to the proposed requirements for emergency generators and small natural gas or oil-fired equipment, LRAPA would add the new requirements to these facilities' permits at the time of permit renewal. The proposed rules would not affect these facilities' permit fees. These businesses might experience costs associated with additional recordkeeping depending on their current environmental managements systems. LRAPA lacks available information to estimate those costs of additional recordkeeping accurately.

LRAPA workload would increase initially and could level off or decrease depending on the number of new facilities that require permits.

Public: LRAPA does not anticipate any fiscal or economic impacts from the proposed rules directly on the public. The proposed rules could affect the public indirectly if businesses change the price of goods and services to offset the costs obtaining a new permit. LRAPA expects any such price increases to be small but lacks available information to estimate potential increases accurately. The proposed rules could create positive economic benefits and improvements in public health and welfare indirectly by helping Lane County protect air quality.

4. Establish two new state air quality area designations, “sustainment” and “re attainment,” to help areas avoid and more quickly end a federal nonattainment designation.

The proposed rules to establish new state air quality area designations would have positive fiscal and economic impacts.

State agencies: LRAPA expects the proposed rules to reduce the likelihood EPA will designate an area as nonattainment. By designating sustainment areas before areas exceed ambient air quality standards and are designated as nonattainment areas, LRAPA and Lane County communities would avoid the costs of developing and implementing attainment plans. LRAPA is unable to estimate the costs savings because each plan is unique. Designating reattainment areas would require approximately the same work as designating a maintenance area, but reattainment designation could happen more quickly than maintenance designation. LRAPA’s workload would initially increase as staff becomes familiar with the proposed rules followed by a workload decrease. The proposed rules would have no fiscal or economic impacts on state agencies because they do not permit businesses or hold permits in the areas affected by the proposed rules. There are no federally owned facilities with permits in the affected area so they are not affected by the sustainment or reattainment area designations.

Local government: The proposed rules would have a positive fiscal and economic impact in sustainment areas indirectly by allowing businesses to build or expand in the areas as long as air quality is protected. The proposed rules would have a positive fiscal and economic impact in reattainment areas indirectly because new and modified facilities that fall below the federal major source threshold would be subject to less stringent requirements provided they were not identified as significant contributors to the air quality problems in the area. The proposed rules would have positive fiscal and economic impacts on local governments by avoiding the costs of developing and implementing attainment plans, such as convening advisory committee meetings required under the nonattainment and maintenance area designations. LRAPA lacks available information to estimate these impacts accurately.

Public: LRAPA does not anticipate the proposed rules under this category to have any direct fiscal or economic impacts on the public. Positive fiscal or economic impacts to the public could occur indirectly, such as increased access to goods and services, if more businesses build or expand in the sustainment or reattainment areas. LRAPA lacks available information to estimate these impacts accurately.

5. Designate Oakridge as a state reattainment area while retaining its federal nonattainment designation

The proposed rules to identify Oakridge as a state reattainment area would have the same fiscal and economic impacts on state agencies, local governments and the public as establishing the new state air quality area designation described in category 4 above. In addition, if a new business locates in Oakridge and buys woodstove offsets, some members of the public may benefit from woodstove replacements.

6. Change the New Source Review preconstruction permitting program

State agencies and local government: LRAPA expects the proposed changes to the preconstruction permitting program would have no negative fiscal and economic impacts on state and federal agencies and local governments because it’s unlikely these entities’ permitted facilities would ever trigger requirements for New Source Review.

LRAPA expects the proposed rules would not change the workload of U.S. Forest Service and National Park Service land managers who currently review New Source Review permit applications for businesses located close to Class I areas, which are usually designated wilderness areas. LRAPA expects its permitting staff would experience a slight workload increase until staff becomes familiar with the proposed rules followed by a workload decrease.

The proposed rules would create positive fiscal and economic impacts indirectly in the form of cost savings for LRAPA and Lane County communities. Reducing emissions before an area exceeds ambient air quality standards would help Lane County avoid additional nonattainment designations by EPA. As a result, LRAPA and Lane County communities would avoid the costs to develop and implement attainment plans for these areas. LRAPA is unable to estimate the cost savings because each plan is unique, but the recent plan for Oakridge took two years to develop and required resources from EPA, DEQ, LRAPA, the Citizen's Advisory Committee and other community members.

The proposed rules removing greenhouse gas permitting requirements would create positive fiscal and economic impacts in the form of cost savings for U.S. Forest Service, National Park Service land managers and LRAPA who currently review New Source Review permit applications since fewer application will be required.

Public: LRAPA expects the proposed rules would have no fiscal or economic impacts on the public directly. The proposed rules could affect the public indirectly if businesses change the price of goods and services to offset the costs of complying with the proposed rules. LRAPA expects any such price increases for goods or services to be small and lacks available information upon which it could accurately estimate potential increases.

7. Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting and delete an unused category

State agencies and local government: LRAPA expects the proposed changes to the permitting program would have no negative fiscal and economic impacts on state and federal agencies and local governments because it's unlikely these entities' permitted facilities would ever trigger requirements for the types of modified permit activities such as small cabinet shops and surface coating operations. LRAPA will have a decrease in fees on the order of \$2,926 - \$3,762 by establishing the lower source cutoff levels for surface coating operations and small woodworking facilities.

LRAPA expects one or two facilities would require higher level and cost permits by removing the waterborne exemption for wood preservation facilities since those facilities would need Simple ACDPs (\$2,216/year) in lieu of a Basic ACDP (\$416/year).

Public: LRAPA expects the proposed rules would have no fiscal or economic impacts on the public directly. The proposed rules could affect the public indirectly if businesses change the price of goods and services to offset the costs of complying with the proposed rules. LRAPA expects any such price increases for goods or services to be small and lacks available information upon which it could accurately estimate potential increases.

8. Increase Air Contaminant Discharge Permit (ACDP) fees by 10% and Change the Annual Increase from the CPI to 4%

Increases in air contaminant discharge permit fees would affect approximately 280 permit holders and registrants directly and increase program revenue by \$48,653 per year in the first

year and then increase by 4% each year on July 1st, thereafter (e.g., \$21,407 in the second year, etc.). Adjustments to the calculation of greenhouse gas reporting fees would affect approximately 30 permit holders directly.

State and federal agencies and local government: In Lane County, state agencies own zero (0) permitted facilities, federal agencies and tribes own zero (0) permitted facilities, and local governments own about five permitted facilities. The proposed fees would affect these permit holders directly. Changes to fees could affect these agencies indirectly if businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee.

Public: The proposed rules would not affect the public directly. Changes to fees could affect the public indirectly if businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee.

Large businesses - businesses with more than 50 employees

LRAPA anticipates the proposed rules would have the following fiscal and economic impact on approximately 156 large businesses.

1. Clarify and update air quality rules

The proposed rules to improve the organization and to increase clarity of the rules may have slight positive fiscal or economic impacts on businesses because the rules would be easier to use and understand. LRAPA lacks information to estimate large businesses' time savings in using rules that are easier to understand.

2. Update particulate matter emission standards

This section largely uses the information DEQ presented as part of their fiscal impact statement in a corresponding rule change adopted in 2015.

Positive: The proposed rules have positive fiscal and economic impacts on business indirectly by helping LRAPA and Lane County communities avoid severe restrictions for businesses that want to build or expand in some areas that are exceeding or are close to exceeding ambient air quality standards. Reducing emissions in these areas would help Lane County avoid nonattainment designations by EPA. When EPA designates an area as nonattainment, federal requirements automatically apply to industrial sources, such as requiring the most stringent control equipment for new or expanding sources or reasonable control measures, such as more strict opacity standards, and requirements for operation and maintenance plans and fugitive emission plans for existing sources. These restrictions may also prevent some industries from expanding or moving to the nonattainment area.

Negative: LRAPA reviewed ten years of source test data submitted to DEQ and LRAPA and determined approximately two businesses that own wood-fired boilers may need to optimize boiler or control equipment performance to comply with the proposed opacity and grain loading limits. One of these wood-fired boilers has no controls and is not currently operating; the owner and operator of this boiler might be required to install a multiclone system if the business decides to operate the boiler.

The costs depend on the methods of compliance or pollution control technology, such as boiler tune-ups or replacement, multiclone optimization or installation and source testing. Based on inquiries with boiler manufacturers, pollution control vendors, engineering design consultants, and the regulated businesses, as well as information provided by the fiscal advisory committee, DEQ estimated the cost of complying with the proposed standards as follows:

Boiler tune-ups: Conducting annual tune-ups is one way to optimize performance of a boiler. Vendors estimated a typical boiler tune-up that requires no replacement parts would cost between \$2,000 and \$11,000. A typical tune-up may include:

- A visual inspection of the system while operating, looking for obvious things that need repair
- Review of past performance checks and expected performance data
- Gathering performance data (oxygen and carbon dioxide readings, stack temperature, feed water temperature, fuel moisture and steam flow)
- Making adjustments to boiler air delivery settings

A more comprehensive boiler tune-up costs from \$33,000 to \$65,000. A boiler tune-up may or may not allow sources to comply with the new standards over time but could provide other benefits such as reduced fuel costs. Newly adopted federal law already requires wood-fired boilers to be tuned up every two to five years so this may not be an additional cost.

Multiclone optimization: If a tune-up is not adequate to comply with the standard, an owner or operator may choose to do a one-time optimization of its multiclone control technology. Nearly all wood-fired boilers in the state already have multiclones. Emissions from these boilers can be reduced by inspecting the integrity of all parts of the multiclone and checking for and repairing plugged or damaged tubes annually. A thorough multiclone inspection costs approximately \$3,000 to \$4,000. As part of the inspection, it may be necessary to install access panels and a gauge for accurately measuring the pressure drop across the multiclone at an additional cost of \$1,000 to \$2,000. Most wood-fired boilers with multiclones already have gauges to measure pressure drop. According to one vendor, the repair or upgrade of a multiclone is estimated to range in cost from \$10,000 to a \$200,000 per boiler, depending on upgrades employed. The upper-end cost estimate may be atypical since it exceeds other vendors' estimates for the cost of a new multiclone.

Another option for multiclone optimization is flue gas recirculation. Optimum performance of a multiclone occurs within a pressure drop range of about two to four inches of water column. However, the pressure drop can vary significantly, depending on the gas flow rate through the multiclone. The actual gas flow rate for a wood-fired boiler varies due to many factors, including firing rate and fuel quality. It is possible, however, to optimize multiclone performance with varying firing rates by using flue gas recirculation, which provides a nearly constant gas flow rate and a consistent pressure drop across the multiclone. Installation of flue gas recirculation ranges in cost from \$30,000 to \$100,000.

Engineering analysis: If a boiler tune-up or multiclone optimization does not enable a wood-fired boiler to meet the proposed particulate matter standard of 0.15 gr/dscf, the owner or operator of the boiler may request a source specific particulate matter limit of 0.17 gr/dscf. Before receiving a source specific particulate matter limit, the owner or operator must submit to LRAPA a report by a registered professional engineer that specializes in boiler and multiclone optimization to evaluate existing equipment optimization options and certify a 0.15 gr/dscf standard cannot be met without installing additional controls. The cost of this engineering report will vary, depending on the reasons for the source specific particulate

matter limit, but is expected to be within the range of \$8,000 to \$24,000.

Source test data shows all boilers currently operating in the state can meet 0.17 gr/dscf except for the one backup boiler described previously that is currently not in use. If boiler optimization does not allow this boiler to meet 0.17 gr/dscf, this facility may choose to install a multiclone if it decides to operate the backup boiler on wood rather than using the existing natural gas boiler.

Multiclone Installation: An owner or operator may choose to install multiclone pollution control equipment. Vendors state that compliance with a 0.15 gr/dscf particulate matter standard is possible with multiclones, especially with ceramic high-efficiency multiclones, but is not guaranteed. Ceramic high-efficiency multiclones have been shown to reduce particulate matter to as low as 0.06 gr/dscf, cost approximately \$110,000 to \$120,000, and last three to five times longer than iron multiclones. Typical iron multiclones cost approximately \$60,000 to \$150,000 for the purchase and installation and last approximately 12 to 15 years before needing replacement.

Source Testing: An owner or operator that makes changes to its wood-fired boilers or pollution control equipment to meet the standard must perform source testing to determine if the changes were effective. A particulate matter source test costs approximately \$12,000. Businesses are already required to perform periodic compliance source testing and could save \$12,000 if the tests could be aligned.

Continuous opacity monitoring systems: An owner or operator may voluntarily choose to install a continuous opacity monitor to ensure it complies with opacity limits at all times. The responsible official for each Title V source is already required to submit a compliance certification report every six months stating whether compliance is continuous or intermittent. Opacity is a good indicator of how well a boiler is operating. High opacity is a result of high emissions and can inform the operator that adjustments are needed to reduce emissions. Adding a continuous opacity monitoring system, along with flue gas recirculation, would help the operator run the boiler efficiently and in compliance with the emissions standards at all times.

A continuous opacity monitoring system ranges in costs from \$13,000 to \$30,000. Installation costs range from \$5,000 to \$40,000 depending on the situation at the facility. Annual operating costs range from \$300 to \$6,000 per year. Equipment and installation cost of a recently installed system on a wood-fired boiler was \$27,800. These costs do not include the cost of a computer, which is a necessary component to these monitoring systems.

Electrostatic precipitators: Installation of an electrostatic precipitator is not required to meet the proposed standards, but a business could voluntarily elect to install electrostatic precipitators to reduce emissions. An electrostatic precipitator can easily meet the 0.15gr/dscf standard because it controls emissions over the wide range of operating conditions that may occur due to changing steam demand and fuel quality. Based on input from vendors, DEQ determined a new electrostatic precipitator costs from approximately \$700,000 to \$2.7 million. This cost could vary by plus or minus 40 percent. However, a facility could use a smaller electrostatic precipitator if its goal were simply to comply with the 0.15 gr/dscf standard. Smaller electrostatic precipitators suitable for the affected wood-fired boilers range in costs from approximately \$420,000 to \$700,000 installed. In early discussions on the proposed changes to the particulate matter standards, one business informed DEQ it was considering a used wood-fired package boiler with an electrostatic precipitator for approximately \$500,000.

Boiler replacement: Boiler replacement is not required to meet the proposed standards, but a business could voluntarily elect to replace a boiler to reduce emissions. A new wood-fired boiler with an electrostatic precipitator installed in 2006 cost about \$7 million. Boilers that provide 25,000 to 200,000 pounds of steam per hour are estimated to cost in the range of \$5.5 million to \$17.9 million. These costs include electrostatic precipitators and continuous opacity monitors.

Summary of annualized costs: The following table summarizes and compares the cost effectiveness of several pollution control devices for controlling PM10 emissions.

Cost Effectiveness for Controlling PM ₁₀ Emissions						
Pollution Control Device	Control Efficiency	PM ₁₀ Emissions Removed (tons/year)	Installed Capital Cost of Equipment	Annual Operating Costs	Total Annual Costs	Total Cost per Ton Removed
Cyclone	50%	0.9	\$2,243	\$580	\$791	\$930
Multiclone	75%	1.3	\$9,424	\$580	\$1,469	\$1,151
High Efficiency Multiclone	99%	1.3	\$62,878	\$800	\$6,980	\$4,159
High Efficiency Multiclone (valved)	99%	1.7	\$125,756	\$800	\$12,915	\$7,695
Core Separator (12")	94%	1.7	\$111,709	\$1,239	\$12,350	\$7,685
Core Separator (24")	72%	1.2	\$63,337	\$1,459	\$8,004	\$6,519
Cyclone + Baghouse	99%	1.7	\$109,878	\$3,920	\$14,291	\$8,483
ESP	95%	1.6	\$138,005	\$1,867	\$14,894	\$9,213

Note: This table is from "Emission Control for Small Wood-Fired Boilers" prepared for the U.S. Forest Service's Western Forestry Leadership Coalition in May 2010

DEQ estimated costs based on information from equipment vendors and EPA's Cost Control Manual. In addition to the size of the wood-fired boiler, the following are factors, which cause variability in capital costs and are not accounted for in the EPA Cost Control Manual:

- Change in the price of steel
- Foreign exchange rates for equipment purchased overseas
- Pollution control device design
- Fuel characteristics such as variable firing rates and wet fuels
- Space requirements
- Ancillary equipment such as ductwork
- Shipping costs

Note: DEQ originally considered proposing a much more stringent statewide particulate matter emission standard (0.10 gr/dscf and 20 percent opacity)). DEQ determined 11 businesses were at risk of non-compliance with the more stringent standard. Seven of these businesses were wood products facilities with wood-fired boilers, one was a pulp mill that operates its boiler on residual oil during natural gas curtailment, and three were asphalt plants. After receiving

input from businesses and stakeholders following DEQ's August 2013 workshops, DEQ determined that compliance with the original proposal could have significant negative fiscal and economic impacts and possibly require process changes or expensive controls such as electrostatic precipitators. DEQ mitigated the negative impacts by proposing alternative standards that are based on well maintained and typically available control technology, often multiclones for wood-fired boilers. The three asphalt plants that were at risk of exceeding the original proposal are older plants that use wet scrubber controls and are exempt because of the hours of operation exemption in DEQ's proposed rules. As a result of the mitigation, DEQ does not anticipate that the proposed rules would require any business to shut down, replace a boiler or change fuel types.

3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment

The proposed rules to change permitting requirements for emergency generators and small natural gas or oil-fired equipment would have a negative fiscal and economic impact on any facilities required to obtain a new permit for these generators and equipment. The initial cost to obtain a new permit is \$1,200 plus these permit holders pay approximately \$1,300 in annual fees. However, LRAPA expects no current facilities would be required to obtain a new permit as a result of the proposed rules because most facilities that have generators or small natural gas or oil-fired equipment already hold air quality permits. LRAPA would add the permitting requirements to these facilities' permits at the time of their permit renewals. The proposed rules would not affect these facilities' permit fees. These facilities might experience costs associated with additional recordkeeping depending on their current environmental managements systems. LRAPA lacks available information to estimate the costs of additional recordkeeping accurately.

4. Establish two new state air quality area designations, "sustainment" and "reattainment," to help areas avoid and more quickly end a federal nonattainment designation; and

5. Designate Oakridge as a state reattainment area while retaining its federal nonattainment designation

The proposed sustainment and reattainment area rules would have positive fiscal and economic impacts on large businesses. Without the new area designations, it will continue to be nearly impossible for businesses to obtain a permit to construct new smaller sources of air pollution in these areas. Although there is a cost associated with obtaining a permit, LRAPA believes the proposed rules have a net positive fiscal and economic impact by reducing restrictions and creating opportunities for new businesses to be constructed and operated. The proposed rules do not change the permitting requirements for Lane County's largest sources of air pollution, known as federal major sources, and therefore have no fiscal or economic impact on these sources. LRAPA expects creating the new area designations to have no negative fiscal or economic impacts on businesses.

6. Change the New Source Review preconstruction permitting program

The proposed rules to change the preconstruction permitting program would have positive and may have negative fiscal and economic impacts on large businesses. LRAPA is unable to quantify the magnitude of the impact accurately because New Source Review permitting requires LRAPA to perform a case-by-case analysis and the type of pollution controls and computer modeling varies for each case.

Positive: Establishing a preconstruction permitting program for small sources of air pollution (called State New Source Review) distinct from the New Source Review program for federal major sources, would have positive fiscal and economic impacts on businesses because the changes would eliminate restrictions on some smaller sources that wish to build or modify their facilities. The proposed rules would allow construction and modification as long as the area's air quality is protected.

The proposed rules would likely reduce costs for businesses in the State New Source Review program in areas LRAPA wants to transition from nonattainment to maintenance more quickly than EPA could redesignate the area to attainment (EPA does not have a maintenance area designation). The proposed rules allow these businesses to meet requirements for maintenance areas instead of more stringent requirements for nonattainment areas. The control technology required in a maintenance area is typically less expensive than technology required in a nonattainment area. If the technology required in maintenance areas results in fewer emission reductions than the business could achieve with technology required in nonattainment areas, the business might be required to purchase more offsets. As a result, there may be higher emission offset costs in maintenance areas if the less expensive control technology allows higher emissions.

The proposed rules clarify how LRAPA provides extensions of a construction permit when construction is delayed. This would have a positive fiscal and economic impact on a business that needs an extension because the permit fees for extensions are lower than the initial application fees for a construction permit. In addition, the business would be allowed to continue to use any offsets obtained under the original application as long as the offsets did not expire.

The proposed rules removing greenhouse gas permitting requirements would create positive fiscal and economic impacts in the form of cost savings for large businesses because permit applications and potential control technologies would not be required.

Negative: The proposed rules improve air quality by raising the amount of offsets a new or modified business would be required to purchase, which would have negative fiscal and economic impacts on businesses. The cost of offsets for industrial facilities varies from \$2,500 per ton to \$100,000 per ton, depending on the pollutant and the supply and demand for offsets. In areas where air quality is close to an ambient air quality standard, the proposed rules also create incentives by allowing fewer offsets to be obtained by a business that chooses to obtain its offsets from sources that are the greatest contributors to the area's air quality problems. The proposed rules would provide businesses the opportunity to obtain offsets from woodstoves. The cost to replace an uncertified woodstove is approximately \$3,000. A certified woodstove reduces emissions by about 0.03 tons per woodstove on an annual basis. The cost of one ton of offsets from woodstoves is approximately \$100,000.

7. Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting and delete an unused category

Most of the affected businesses in this section of the proposed changes are small businesses. With regard to the proposal to remove the exemption for waterborne wood preserving, there may be a negative fiscal impact on large businesses. The establishment of production/usage levels below which surface coaters and woodworking sources are required to obtain a permit would have a positive fiscal impact on any large business; LRAPA believes that proposed change would not affect large businesses. Deleting the unused auto body/surface coating permit category is estimated by LRAPA to have no effect

on large businesses.

8. Increase Air Contaminant Discharge Permit (ACDP) fees by 10% and change the annual increase from the CPI to 4%

Direct Impacts Approximately 130 large businesses hold air contaminant discharge permits in Lane County and a fee increase would affect these permit holders directly. The proposed fee increase for the Simple and Standard permit, typical for these businesses, ranges from \$693 to \$1,385 in the first year and increases by 4% each year thereafter. The type of permit required for a facility determines the permit fees regardless of the number of employees.

LRAPA estimates that approximately one to two large businesses will apply for greenhouse gas permits or modifications each year due solely to the greenhouse gas regulations. These businesses would save \$7,200 in permit application fees.

Indirect Impacts Changes to fees could affect businesses indirectly if other businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee.

Impacts on Small businesses – businesses with 50 or fewer employees [ORS 183.336](#)

In addition to the fiscal and economic impact described under the section above “Large businesses - businesses with more than 50 employees,” the proposed rules could have the following impacts on small business.

Many small businesses (with 50 or fewer employees) have an air contaminant discharge permit. Generally, facilities with less complex permits experience a smaller economic impact from fee increases than larger facilities with more complex permits.

Direct Impacts The proposed rules would initially increase annual fees by \$18 to \$216 per year, and 4% annually thereafter, for small businesses that must:

- Have a Basic or General ADCP, or
- Register with LRAPA in lieu of applying for a permit.

Examples of these small businesses are dry cleaners and automotive body shops.

Some small businesses that hold more complex Simple and Standard permits could experience initial fee increases of between \$222 and \$886 per year.

Additional proposed fee increases would affect small businesses required to apply for a new permit or a modification to an existing permit, by initially increasing specific activity fees by \$18 to \$4,847 per permit application.

Indirect Impacts Changes to fees could affect small businesses if other businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee.

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

Overall, the proposed rules would affect approximately 150 small businesses, such as auto body shops, asphalt plants, rock crushers and sawmills. The proposed rules would affect approximately 5 small businesses that

own or operate emergency generators and small natural gas or oil-fired equipment. The proposal to establish lower source usage and production levels below which sources would be exempt from permitting would affect 6 to 12 small business by no longer requiring them to be on permit.

Many of the small businesses subject to the lower grain loading and opacity standards already have the lower standards in their permits. Current compliance information indicates that all small businesses already comply with the proposed standards and would not experience fiscal or economic impacts.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

The proposed rules would increase recordkeeping and reporting for emergency generators and small natural gas or oil-fired equipment over permitting thresholds.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

The proposed rule changes will not affect these costs.

d. Describe how LRAPA involved small businesses in developing this proposed rule.

LRAPA presented to their standing advisory committee that includes small business representatives the proposed rule changes. In their corresponding rule changes, DEQ notified small businesses (including Lane County small business) by mail, email, announcements on the DEQ website, stakeholder meetings, fiscal advisory committee meeting, and the DEQ/LRAPA Small Business Compliance Advisory Panel. LRAPA also provided similar notices regarding DEQ's corresponding rule changes by email and website announcement. The Board and the LRAPA Citizen's Advisory Committee also received presentations by DEQ on their corresponding rule changes.

Documents relied on for fiscal and economic impact

Document title	Document location
LRAPA Title 37: Air Contaminant Discharge Permits, Tables 1 and 2	http://www.lrapa.org/205/Rules-Regulations
EPA Air Pollution Control Cost Manual, Report No. 452/B-02-001, January 2002, Section 6, Chapter 1, Baghouses and Filters	https://www3.epa.gov/ttn/catc/dir1/cost_toc.pdf
Consumer Price Index Conversion Factors 1774 to estimated 2021 to Convert to Dollars of 1998. 2013 Robert C. Sahr, Political Science, Oregon State University, Rev 05/08/2013	http://liberalarts.oregonstate.edu/spp/polisci/research/inflation-conversion-factors-convert-dollars-1774-estimated-2024-dollars-recent-year
Emission Controls for Small Wood-Fired Boilers, Prepared for: United States Forest Service, Western Forestry Leadership Coalition, May 2010	http://www.biomasscenter.org/images/stories/emissions_rpt.pdf
Oregon Administrative Rules	http://www.deq.state.or.us/regulations/rules.htm
DEQ's Staff Report to the EQC at the April 2015 meeting: Revisions to Air Quality Permitting, HeatSmart, and Gasoline Dispensing Facilities	http://www.oregon.gov/deq/Regulations/rulemaking/Pages/AQPerm.aspx
LRAPA Board Meeting Minutes, October 2016	http://www.lrapa.org/AgendaCenter/ViewFile/Minutes/_11102016-69

Advisory committee

LRAPA has a standing advisory committee that meets most months. LRAPA consulted their Citizen's Advisory Committee for this rulemaking and presented a summary of the changes to the committee at their May 2017 meeting. The committee members that attended the meeting agreed to the proposed changes and had questions about LRAPA's proposal. The LRAPA advisory committee also received a presentation from DEQ on their corresponding proposed rule changes at the April 2014 meeting.

Housing cost

To comply with [ORS 183.534](#), LRAPA determined the proposed rules might have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. It is possible that a permit holder could change the price of goods and services to pass on any fee changes to consumers, though any estimate of the possible impact would be speculative using information available at this time.

Federal relationship

Relationship to federal requirements

This section complies with the requirements of [OAR 340-011-0029](#) and [ORS 468A.327](#) to clearly identify the relationship between the proposed rules and applicable federal requirements.

The following six categories of LRAPA's proposed changes contain rules that are "in addition to federal requirements."

1. Clarify and update air quality rules: EPA has no rules that clarify and update existing LRAPA rules.

What alternatives to LRAPA consider, if any?
LRAPA considered doing nothing, but did not pursue this alternative because the existing rules contain errors and create confusion and misinterpretations for regulated parties.

2. Update particulate matter standards: The proposed rules protect public health and the environment. DEQ has statewide opacity limits for new and existing sources, including fugitive emission sources. While some of EPA's New Source Performance Standards have opacity and particulate matter limits for specific regulated industries, EPA regulations do not apply an equivalent opacity standard to all sources.

The proposed rules are in addition to federal requirements for two New Source Performance Standards that have opacity limits for fugitive emissions but different than federal requirements. The proposed rules would require a permit holder to abate any fugitive emissions that leave the permit holder's property. Using EPA Method 9 to determine compliance, the New Source Performance Standard for Metallic Mineral Processing Plants (Subpart LL) requires fugitive emissions to meet 10 percent opacity and the NSPS for Nonmetallic Mineral Processing Plants (Subpart OOO) contains a limit of 7 percent opacity and allows an affected facility to rely on water carryover from upstream water sprays to control fugitive emissions.

The proposed changes to the current visible emission standards that apply to non-fugitive sources would make LRAPA's standards substantively equivalent to EPA's visible emissions standards. While DEQ changed their opacity standards from an aggregate period to a six-minute average in order for DEQ and permit holders to use EPA Method 9 for determining compliance, LRAPA proposes to retain the three-minute aggregate basis of the opacity standard.

The proposed change to add a significant figure to the particulate matter standard from 0.1 gr/dscf to 0.10 gr/dscf would align LRAPA rules with DEQ rules and with applicable federal requirements and policies.

What alternatives did LRAPA consider, if any?
LRAPA considered not amending Oregon's particulate matter standards, but did not pursue this alternative because protecting air quality and supporting economic development are important to Oregon. Most businesses constructed before 1970 have already updated their facilities and now meet the lower particulate matter standards. Furthermore, LRAPA is required to adopt rules that are at least as stringent as corresponding state and federal rules; LRAPA could have proposed even more stringent particulate limits, but proposes to align the limits with the DEQ-adopted limits to maintain consistency.

LRAPA is aware that DEQ considered phasing out the standards that apply to pre-1970 sources and requiring all sources to meet the post-1970 standard with the addition of a significant digit (0.10 gr/dscf, for example) by Jan. 1, 2020. Based on input from DEQ stakeholders suggesting that complying with a limit of 0.10 gr/dscf would present a significant economic hardship, DEQ proposed a different set of standards that will not

require any businesses to replace existing equipment or change the type of fuel being used. The proposed changes to the standards by LRAPA are consistent with DEQ's adopted changes and are based on well maintained typically available control technology that will minimize particulate matter emissions to the extent practicable with existing equipment.

LRAPA considered amending the averaging time for opacity standards to be consistent with DEQ's, but did not pursue this alternative because LRAPA found an EPA reference method for the 3-minute aggregate basis. LRAPA inspectors indicated a preference to retain the averaging time for demonstrating compliance, especially for batch operations.

LRAPA considered not amending the opacity limits for fugitive emission sources, but did not pursue this alternative because implementation issues would still exist and the proposed new standard will reduce emissions more effectively than would trying to determine compliance with a 20 percent opacity limit. Additionally, LRAPA is required to adopt rules that are at least as stringent as DEQ's corresponding rules; DEQ determined that their revised opacity limits are more stringent than LRAPA's existing limits.

- 3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment:** The proposed rules protect public health and the environment. The proposed rules would require facilities to obtain construction approvals or permits when emissions from emergency generators and small natural gas or oil-fired equipment are significant; these units' operations were previously treated as insignificant activities. LRAPA's Plant Site Emission Limit rules require LRAPA permits to regulate smaller units than EPA requires. EPA requires states and locals to have permitting programs for smaller emission units, but does not specify the details of a minor New Source Review program.

What alternatives did LRAPA consider, if any?

LRAPA did not consider alternatives because failure to change the permitting requirements would result in small sources potentially violating the internal combustion engine standards and LRAPA rules for operating without a permit. Additionally, LRAPA is required to adopt rules that are at least as stringent as DEQ's corresponding rules; DEQ determined that their revised permitting requirements are more stringent than LRAPA's existing limits.

- 4. Establish two new state air quality area designations, "sustainment" and "re attainment," to help areas avoid and more quickly end a federal nonattainment designation; and**
- 5. Designate Oakridge as a state re attainment area while retaining its federal nonattainment designation:** The proposed rules would designate sustainment and re attainment areas identical to the corresponding rules adopted by DEQ. EPA has no equivalent designations. The changes would protect public health by improving air quality, while improving Lane County's New Source Review Program and increasing LRAPA's flexibility in permitting smaller businesses.

What alternatives did LRAPA consider, if any?

LRAPA considered doing nothing, but did not pursue this alternative because EPA supports the new area designations; LRAPA will discuss the proposal with Oakridge and county officials to seek their support for the new designation.

- 6. Change the New Source Review preconstruction permitting program:** The proposed rules would continue to protect public health and the environment while addressing

economic concerns. LRAPA's program is nearly identical to DEQ's, and, although different from EPA's regulations, provides a workable program equivalent to, and in some cases, more stringent than EPA's to accomplish the same Clean Air Act goal of preventing significant deterioration of air quality.

EPA considers LRAPA's program substantively equivalent.

- LRAPA has revised the proposed rules to be identical to DEQ's by separating the New Source Review program for federal major sources from that of minor sources with different requirements for large and small facilities. The program for smaller facilities would be called State New Source Review. This change, along with the designation of sustainment and reattainment areas, would increase LRAPA's flexibility in permitting smaller facilities while protecting ambient air quality.
- The proposed rules would create new differences between the LRAPA and EPA New Source Review preconstruction programs by defining two new area designations, sustainment and reattainment. These two new designations would help areas avoid exceeding ambient air quality standards and encourage economic development when a nonattainment area has improved air quality.

What alternatives did LRAPA consider, if any?

LRAPA considered doing nothing, but did not pursue this alternative because the existing preconstruction permitting program essentially creates a construction ban in areas that exceed the ambient air quality standard, but are still designated as attainment areas. The existing rules governing demonstration of net air quality benefit in nonattainment areas are too prescriptive and do not meet the goals of the program.

The following three categories of the proposed rules are not "different from or in addition to federal requirements" and impose stringency equivalent to federal requirements.

6. **Change the New Source Review preconstruction permitting program:** The proposed rules would remove certain greenhouse gas permitting requirements to align with the 2014 U.S. Supreme Court decision.

What alternatives did LRAPA consider, if any?

LRAPA considered doing nothing, but did not pursue this alternative because LRAPA wanted to provide national consistency for facilities that would have triggered Prevention of Significant Deterioration or a Title V permit for greenhouse gases alone.

7. **Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting and delete an unused category:** The proposed rules would establish production and usage levels under which two categories of source activities would be exempt from permitting. The proposed rules also essentially remove the waterborne exemption for the wood preservation source activity category.

What alternatives did LRAPA consider, if any?

LRAPA considered doing nothing, but did not pursue this alternative because LRAPA wanted to adjust the permitting requirements for the three categories of source activities to exempt certain sources and to require permits for others.

8. **Increase Air Contaminant Discharge Permit (ACDP) fees by 10% and change the annual increase from the CPI amount to 4%:** The proposed rules restore services for

operating the air contaminant discharge permit program. While there is a federal requirement for Oregon to pay for its Clean Air Act Title V operating permit program with permit fees, and some of those permit holders must also sometimes obtain air contaminant discharge permits, the majority of facilities holding air contaminant discharge permits are required to hold the permit under state law and not federal law.

What alternatives did LRAPA consider if any?

LRAPA considered various percentage increases but chose to go with the 10% one-time and 4% annual increase recommended by the Board's Resources Committee, as presented and approved by the Board at the October 2016 meeting.

LRAPA also considered proposing fee increases similar to those proposed by DEQ in 2017. DEQ has convened an advisory committee to evaluate their proposed fee increases and has included this explanation of the alternatives they considered in their corresponding staff report: "*While developing Policy Package 110, DEQ considered a 22 percent across the board fee increase. The proposed new fees for certain construction and permit renewal applications and source test reviews allows DEQ to propose a 14 percent across the board fee increase instead of the 22 percent increase in Policy Package 110 and that DEQ determined is needed to fully fund the air contaminant discharge permit program for the next two years.*"

(see <http://www.oregon.gov/deq/Regulations/rulemaking/Pages/racdpfees2017.aspx>)

LRAPA chose to adopt a smaller percentage increase and continue to make small, incremental increases based on the consumer price index as we have done previously and as the Title V fees are increased each year.

LRAPA considered leaving the greenhouse gas reporting fees at current levels (15%), but decided against that option to ensure that the 12.5 percent fee is consistent with the fees assessed for DEQ's permitted sources.

Request for other options

During the public comment period, LRAPA requests public comment on whether to consider other options for achieving the rule's substantive goals while reducing negative economic impact of the rules on business.

Land use

"It is the (*Environmental Quality*) Commission's policy to coordinate the Department's (*DEQ's*) programs, rules and actions that affect land use with local acknowledged plans to the fullest degree possible." [OAR 340-018-0010](#)

Land-use considerations

To determine whether the proposed rule involve programs or actions that are considered a *land-use action*, LRAPA considered the following state and/or DEQ program requirements:

- Statewide planning goals for specific references. Section III, subsection 2 of the DEQ State Agency Coordination Program document identifies the following statewide goal relating to DEQ's authority:

Goal	Title
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5	Open Spaces, Scenic and Historic Areas, and Natural Resources
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6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarial Resources
19	Ocean Resources

- [OAR 340-018-0030](#) for EQC rules on land-use coordination. Division 18 requires DEQ to determine whether proposed rules will significantly affect land use. If yes, how DEQ will:
 - Comply with statewide land-use goals, and
 - Ensure compatibility with acknowledged comprehensive plans, which DEQ most commonly achieves by requiring a [Land Use Compatibility Statement](#).
- DEQ's mandate to protect public health and safety and the environment.
- Whether DEQ is the primary authority responsible for land-use programs or actions in the proposed rules.
- Present or future land uses identified in acknowledged comprehensive plans.

Determination

LRAPA determined that the following proposed rules, listed under the Rules affected, authorities, supporting documents section above, are existing rules that affect programs or activities that the DEQ State Agency Coordination Program considers a land-use program:

LRAPA Title 34 Stationary Source Notification Requirements
 LRAPA Title 37 Air Contaminant Discharge Permits

The air quality permit programs require that a new business provide a Land Use Compatibility Statement from local government when applying for a permit. This assures that the business has an approved use for the property where it is located. Existing permittees have provided Land Use Compatibility Statements, which are on file with LRAPA. This rule proposal does not include any changes to land use procedures in the air quality permitting program.

DEQ's statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules.

- OAR 340-018-0040(1) - compliance with statewide planning goals achieved by ensuring compatibility with acknowledged comprehensive plans
- OAR 340-018-0050(2)(a) - ensuring compatibility with acknowledged comprehensive plans may be accomplished through a Land Use Compatibility Statement.

Stakeholder and public involvement

Advisory committee

LRAPA consulted their advisory committee for this rulemaking and presented a summary of the changes to the committee at their May and July 2017 meetings. DEQ also presented their corresponding proposed rule changes at the April 2014 LRAPA advisory committee meeting. The May 2017 committee notes are at: <http://www.lrapa.org/DocumentCenter/View/2692>

Roster – May 2017 meeting:

Name	Representing
Maurie Denner, Chair	General Public
Chuck Gottfried, Co-Chair	Agriculture (absent)
Larry Dunlap, Member	Public Health
Jim Daniels, Member	Large Industry (absent)
Paul Engelking, Member	General Public (absent)
Laura Seyler, Member	Large Industry (absent)
Leonard Epstein, Member	General Public
Gery Vander Meer, Member	General Public (absent)
John Tamulonis, Member	Public Planning (absent)
Randy Hledik, Member	Industry
Kathy Lamberg, Member	General Public (absent)
Link Smith, Member	Fire Suppression (absent)
Terry Richardson, Member	General Public

The committee reviewed the proposed air contaminant discharge permit fee increases and other proposed rule changes. The committee concluded that the proposed rules will have a fiscal and economic impact but found it difficult to assess the extent of the impact. One member representing industry wanted to know about how the increase in permit fees would be used and, specifically, if permit holders would pay for LRAPA services beyond permitting (e.g., open burning and homewood heating, etc.). The Director explained that the ACDP fees are part of the Agency's general fund and are included in a fund with other similar funds; as a small agency, the cost of LRAPA's ACDP program isn't known in exact quantifiable terms, but the Director pointed to DEQ's more detailed staff analysis and noted that LRAPA's increased fees would be less than DEQ's.

The committee had questions about the time basis for the (non-fugitive) opacity standard and discussed whether the proposal to retain the three-minute aggregate basis of the standard is stricter or less stringent than the six-minute block average basis. LRAPA explained that DEQ and EPA both determined that each of the two versions could be stricter or less strict, depending on the situation. Staff explained that LRAPA inspectors prefer to retain the three-minute aggregate basis of the standard, especially when evaluating visible emissions from batch operations.

No other committee members offered suggestions.

Meeting notifications

To notify people about advisory committee's activities, LRAPA posted the agenda on our website at: <http://www.lrapa.org/AgendaCenter/ViewFile/Agenda/05232017-80>

- LRAPA sent a one-time notice to the Citizens Advisory Committee subscribers email list alerting to the meeting agenda for the month.

LRAPA prior involvement

LRAPA shares general rulemaking information with the Board through the monthly Director's Report and information items on the Board agenda. LRAPA did not present additional information specific to this proposed rule revision beyond the periodic rule report. The Board received a presentation from DEQ's Jill Inahara on the DEQ corresponding proposed rules at the April 2014 Board & Budget meeting.

Public notice

LRAPA plans to provide notice of the Notice of Proposed Rulemaking with Hearing on September 14, 2017 to:

- Secretary of State for publication in the [*Oregon Bulletin*](#) to be published in the October 1, 2017 edition;
- The LRAPA Web page notice: <http://www.lrapa.org/calendar.aspx?CID=22> ;
- 100 to 150 interested parties on the Agency Rulemaking List;
- LRAPA provided legal notices in the following newspapers:
Register Guard (Eugene) Publication date – [DATE], 2017
Dead Mountain Echo (Oakridge) Publication date - [DATE], 2017
Siuslaw News (Florence) Publication date - [DATE], 2017
The Sentinel (Cottage Grove) Publication date - [DATE], 2017; and
- On June 16, 2014, DEQ notified 240 interested parties and stakeholders provided to DEQ by LRAPA; DEQ notified LRAPA's interested on their corresponding rule changes that are largely

included in this proposed rulemaking because many of the proposed changes applied immediately in Lane County due to them (possibly) becoming more stringent.

Public hearings

LRAPA plans to hold one public hearing. The table below explains how to participate in the hearing.

Before taking public comment and according to [Oregon Administrative Rule 137-001-0030](#), the presiding officer staff presenter will summarize the content of the notice given under [Oregon Revised Statute 183.335](#) and respond to any questions about the rulemaking.

LRAPA will add the names, addresses and affiliations of all hearing attendees to the interested parties list for this rule if provided on a registration form or the attendee list. LRAPA will consider all oral and written comments received at the hearing listed below before completing the proposed rule. LRAPA will summarize all comments and respond to comments on the staff report.

Hearing	
Date	November 9, 2017
Time	12:30 p.m.
Address line 1	Lane Regional Air Protection Agency (LRAPA) Meeting Room
Address line 2	1010 Main Street
City	Springfield, Oregon 97477
Presiding officer	Merlyn Hough, Agency Director
Staff presenter	Max Hueflte, Permitting
Conference number	(541) 736-1056 x302

Close of public comment period

The comment period will close on Thursday, November 9, 2017 at 12:30 p.m.

DEQ public hearings on their corresponding industrial permit rule changes

For categories 1-6 listed in this staff report, DEQ held hearings on their corresponding rules for those elements. DEQ held one statewide public hearing accessible at the five locations. DEQ initially planned to hold the hearing in Portland, Bend and Medford. DEQ added locations in Springfield (held at the LRAPA office) and Pendleton to increase opportunities for people to attend. DEQ received public comments from 59 organizations and individuals.

Summary of comments and LRAPA responses

LRAPA will include the summary of comments received and LRAPA's responses to those comments in this section after the public comment period has closed.