



Lane Regional Air Protection Agency (LRAPA)  
Proposed Adoption  
January 11, 2018  
Board of Director's Meeting  
Staff Report - Rulemaking Action Item

LRAPA 2017 Industrial Air Permitting Rules

This file contains the following documents:

- [Staff Report \(this document\)](#)
- [Attachment A1: Proposed rules](#)
- [Attachment A2: Board Roadmap](#)
- [Attachment A3: Oakridge Reattainment Area Supplemental Information](#)
- [Attachment A4: Crosswalk of proposed revisions](#)

## 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.

At the September 14, 2017 meeting the Board authorized staff to hold a hearing. A hearing was held at the November 9, 2017 Board meeting, but the Board did not take action at that meeting. A request for an extension of the comment period was received as part of the oral testimony at the November 9, 2017 meeting. At the December 7, 2017 meeting the Board authorized staff to reopen the written comment period from December 8 until December 29, 2017.

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 and July 2017 CAC meetings.

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 re attainment 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
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**

<b>1. Clarify and update air quality rules</b>	
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 <sub>2.5</sub> 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?

1. Clarify and update air quality rules	
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 parties. For example, the procedures to determine a major modification, actual emissions and netting basis are in the definitions rules instead of procedural rules.	The proposed rules would move procedures from definitions rules to procedural rules.
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.	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>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"> <li>• Large sources must report all excess emissions immediately (within one hour of the event)</li> </ul> <p>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"> <li>• Small sources must notify LRAPA immediately only of excess emissions events that could endanger public health.</li> </ul> <p>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</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"> <li>• 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</li> <li>• Whether the excess emissions event was due to an emergency.</li> </ul>

1. Clarify and update air quality rules

inadvertently did not include sources that are on Basic permits.

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 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 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 LRAPA's particulate standards are consistent with current EPA policy

2. Update particulate matter emission standards	
<p>LRAPA’s rules do not contain a reference method necessary to demonstrate compliance with opacity standards.</p> <p>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 average 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.</p> <p>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.</p>	<p>for significant figures when determining compliance with standards.</p> <p>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.</p> <p>The proposed rules would amend all opacity standards, both countywide 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.</p> <p>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.</p>
<p>LRAPA needs to revise the method for addressing opacity from fugitive emission sources to be as stringent as DEQ’s corresponding rule.</p> <p>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</p>	<p>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</p>

2. Update particulate matter emission standards	
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.	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 and LRAPA 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</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"> <li>• Those units are above size thresholds that make them subject to emission limits, or</li> <li>• Their aggregate emissions are greater than de minimis levels.</li> </ul> <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</p>

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

significant potential emissions of approximately 12 tons per year of nitrogen oxides.	only need to obtain preconstruction approval from LRAPA when installing new units and not a permit.
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**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 and LRAPA law designate 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?
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<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"> <li>• 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.</li> <li>• 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.</li> </ul> <p>The Board would designate specific areas of the state as sustainment or re attainment based on a local air quality analysis, LRAPA</p>
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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

	<p>recommendations and public comment. These classifications would provide communities and businesses with additional tools and incentives to improve air quality, as described below.</p>
<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>

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

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. 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.

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. 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](#) and the [LRAPA webpage](#) for supplemental information about the designation for Oakridge.

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<sub>2.5</sub>, 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 <a href="#">Oakridge Reattainment Area document</a> 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<sub>2.5</sub>.</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 <a href="#">Attainment plan</a> that has been developed for Oakridge outside the rulemaking process will address all PM<sub>2.5</sub> 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>

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

	<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>
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**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.

<p>What need would the proposed rules address?</p>	<p>How would the proposed rules address the need?</p>
<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</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>

6. Change the New Source Review preconstruction permitting program	
<p>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>	<ul style="list-style-type: none"> <li>• Establish a minor New Source Review program for smaller facilities called "State New Source Review."</li> <li>• 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.</li> </ul>
<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> <ul style="list-style-type: none"> <li>• Based solely on air quality modeling,</li> <li>• Sometimes impossible for businesses to meet, unless the increasing and offsetting businesses are co-located,</li> <li>• Prevent potentially more beneficial local air pollution reduction projects from occurring, thereby creating an unnecessary construction ban, and</li> <li>• 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.</li> </ul>	<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 that requires emission offsets to be greater than emission increases. The offset ratio would depend on:</p> <ul style="list-style-type: none"> <li>• The area classification, and</li> <li>• Whether the new or modified source of emissions is a federal major source or minor source.</li> </ul> <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"> <li>• Tie up the business's designated allowable emissions portion of the airshed indefinitely,</li> </ul>	<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"> <li>• 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.</li> <li>• For the second extension, the proposed rules would require a review of the pollution control technology and a review</li> </ul>

6. Change the New Source Review preconstruction permitting program	
<ul style="list-style-type: none"> <li>Result in the installation of less effective control technology if control technology has improved since the approval of the original construction permit, and</li> <li>Unnecessarily impair air quality.</li> </ul>	of the impacts on the ambient air quality in the area.
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 V permits for greenhouse gases alone, causing inequity for facilities located in Lane County.	The proposed rules would address the need by removing certain greenhouse gas permitting requirements to align with the 2014 Supreme Court Decision.

7. Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting	
<p>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:</p> <ul style="list-style-type: none"> <li><i>Surface coating operations that use less than 100 gallons/year of VOC and/or HAP containing coatings;</i></li> <li><i>Sawmills and other wood products facilities that produce less than 5,000 board feet per maximum 8 hour finished product, and</i></li> <li><i>Wood preserving (including waterborne solutions with actual or projected emissions of greater than 1 ton/year VOC and/or HAP).</i></li> </ul> <p>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.</p> <p>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.</p> <p>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 was</p>	

**7. Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting**

proposed to be deleted, but subsequently was retained after the proposed version of the rules did not delete the category.

What need would the proposed rules address?	How would the proposed rules address the need?
<p>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>	<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 250 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 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>

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

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 1<sup>st</sup> of each year in lieu of the current increase by the CPI.

What need would the proposed rules address?	How would the proposed rules address the need?
<p>The Board's Resources Committee recommended, and the Board approved a 10%</p>	<p>LRAPA is proposing a 10% increase in ACDP fees over existing fee amounts and to change</p>

8. Increase Air Contaminant Discharge Permit (ACDP) fees by 10% and Change the Annual Increase from the CPI to 4%	
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 1 <sup>st</sup> of each year in lieu of the current increase by the CPI.	the annual ACDP fee increase on July 1 <sup>st</sup> of each year from the CPI to 4%.

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	<a href="http://www.oregon.gov/deq/EQCdocs/0415ItemJReport.pdf">http://www.oregon.gov/deq/EQCdocs/0415ItemJReport.pdf</a>

EPA Method 203B – Visual Determination of Opacity Emissions From Stationary Sources for Time-Exception Regulations	<a href="https://www3.epa.gov/ttnemc01/promgate/m203B.pdf">https://www3.epa.gov/ttnemc01/promgate/m203B.pdf</a>
Code of Federal Regulations	<a href="http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR">http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR</a>
Federal Register	<a href="http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR">http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR</a>
Oregon Administrative Rules	<a href="http://www.oregon.gov/deq/Regulations/Pages/Administrative-Rules.aspx">http://www.oregon.gov/deq/Regulations/Pages/Administrative-Rules.aspx</a>
Oregon Revised Statutes	<a href="http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx">http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx</a>
LRAPA Rules and Regulations	<a href="http://www.lrapa.org/205/Rules-Regulations">http://www.lrapa.org/205/Rules-Regulations</a>
LRAPA Board October 2016 meeting minutes	<a href="http://www.lrapa.org/AgendaCenter/ViewFile/Minutes/_11102016-69">http://www.lrapa.org/AgendaCenter/ViewFile/Minutes/_11102016-69</a>

## 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.

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 reattainment 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
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**

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 1<sup>st</sup>, 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 <sub>10</sub> Emissions						
Pollution Control Device	Control Efficiency	PM <sub>10</sub> 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 "re attainment," 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**

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.

**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	<a href="http://www.lrapa.org/205/Rules-Regulations">http://www.lrapa.org/205/Rules-Regulations</a>
EPA Air Pollution Control Cost Manual, Report No. 452/B-02-001, January 2002, Section 6, Chapter 1, Baghouses and Filters	<a href="https://www3.epa.gov/ttn/catc/dir1/cost_toc.pdf">https://www3.epa.gov/ttn/catc/dir1/cost_toc.pdf</a>
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	<a href="http://liberalarts.oregonstate.edu/spp/polisci/research/inflation-conversion-factors-convert-dollars-1774-estimated-2024-dollars-recent-year">http://liberalarts.oregonstate.edu/spp/polisci/research/inflation-conversion-factors-convert-dollars-1774-estimated-2024-dollars-recent-year</a>
Emission Controls for Small Wood-Fired Boilers, Prepared for: United States Forest Service, Western Forestry Leadership Coalition, May 2010	<a href="http://www.biomasscenter.org/images/stories/emissions_rpt.pdf">http://www.biomasscenter.org/images/stories/emissions_rpt.pdf</a>
Oregon Administrative Rules	<a href="http://www.deq.state.or.us/regulations/rules.htm">http://www.deq.state.or.us/regulations/rules.htm</a>
DEQ’s Staff Report to the EQC at the April 2015 meeting: Revisions to Air Quality Permitting, HeatSmart, and Gasoline Dispensing Facilities	<a href="http://www.oregon.gov/deq/Regulations/rulemaking/Pages/AQPerm.aspx">http://www.oregon.gov/deq/Regulations/rulemaking/Pages/AQPerm.aspx</a>
LRAPA Board Meeting Minutes, October 2016	<a href="http://www.lrapa.org/AgendaCenter/ViewFile/Minutes/_11102016-69">http://www.lrapa.org/AgendaCenter/ViewFile/Minutes/_11102016-69</a>

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, July 2017, and December 2017 meetings. 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 "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 rules would designate sustainment and reattainment 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 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:** 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 two categories of source activities to exempt certain sources and to require permits for others. LRAPA also considered setting the surface coating de minimis cutoff at 100 gallons/year or 250 gallons/year, and decided that it should be 250 gallons/year.

- 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:

<b>Goal</b>	<b>Title</b>
5	Open Spaces, Scenic and Historic Areas, and Natural Resources
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 primarily at their May 2017 meeting. Staff was also had discussions with the committee at their July and December 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 provided notice of the Notice of Proposed Rulemaking with Hearing as follows:

On September 14, 2017, LRAPA submitted notice (or DEQ submitted the notice on LRAPA's behalf):

- 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> ;
- 221 notifications sent through the website posting Notify Me® subscriptions;
- 335 interested parties on the Agency Rulemaking List on September 29, 2017;
- Approximately 10,218 interested parties through GovDelivery (DEQ) on September 29, 2017;
- Key legislators required under [ORS 183.335](#) including:

- Senator Michael Dembrow, Chair, Senate Environment and Natural Resources Committee
- Representative Ken Helm, Chair, House Energy and Environment Committee
- Sent notice to EPA
- LRAPA provided legal notices in the following newspapers:  
*Register Guard (Eugene)* Publication date – October 1, 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 hearing and comment

LRAPA held one public hearing. LRAPA received nine public comments from seven public commenters. Later sections of this document include a summary of comments received, LRAPA responses, and a list of the commenters. Original comments are on file with LRAPA.

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, Director
Staff presenter	Max Hueflte, Permitting
Conference number	(541) 736-1056 x302

Close of public comment period

The public comment period closed November 8, 2017 at 5 p.m. During the public hearing on November 9, 2017, LRAPA received a request to extend the comment period. At their December 7, 2017 meeting, the Board approved an additional comment period from December 8, 2017 to December 29, 2017 at 5 p.m. to provide additional opportunity to comment.

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.

Presiding Officers' Record

One public hearing was held at the LRAPA Board meeting on November 9, 2017 at the LRAPA office. The hearing was convened at 12:40 p.m. and closed at 1:48 p.m. The presiding officer was Jeannine Parisi, LRAPA Board Chair. The staff presenter was Max Hueftle, Permit Section Manager.

The presiding officer convened the hearing and summarized procedures for the hearing including notification that LRAPA was recording the hearing. The presiding officer asked people who wanted to present verbal comments to complete, sign and submit a registration form.

According to Oregon Administrative Rule 137-001-0030, the staff presenter summarized the content of the notice given under Oregon Revised Statute 183.335.

23 people attended the hearing. Three people presented oral testimony at the hearing.

## Summary of comments and LRAPA responses

For public comments received by the close of the public comment period, the following table organizes comments into the eight original categories (1 through 8) in which this document describes the proposed rules and an additional categories including Greenhouse Gas Permitting Rules (Identified in this document as new category 0), Public Notice (new category 9), and Other Comments (new category 10). Each comment is cross referenced to the commenter number. Original comments are on file with LRAPA. LRAPA's response follows each comment summary. LRAPA changed the proposed rules in response to comments as described in the response sections.

### Summary of Comments and LRAPA Responses

#### Category 0: Greenhouse gas permitting rules

##### Special Discussion of Greenhouse Gas (GHG) Rules and Response to Comments

Comment: LRAPA should keep its current regulations on greenhouse gases for Prevention of Significant Deterioration and Title V. The Supreme Court's decision in UARG does not affect LRAPA's ability to regulate sources based on greenhouse gas emissions. LRAPA can and should regulate greenhouse gas emissions under its state law authority, especially since the City of Eugene has a climate plan and the State of Oregon is considering a Cap and Invest plan to address greenhouse gases. LRAPA should maintain the 100,000 ton per year GHG major source threshold and strengthen the rule over time, with the threshold slowly coming down to 25,000 tons per year. Retaining the existing GHG regulations aimed at new sources may spur business innovation in Oregon, particularly if LRAPA was innovative and gave "credits" to early technology adopters.

LRAPA received a comment in this category from commenters 3, 4, 5, and 9 listed in the Commenter section below.

Response:

*As part of the response to these comments, LRAPA is providing a general overview of the greenhouse gas permitting rules and how the Supreme Court decision affects LRAPA's permitting program. The purpose of this overview is to help clarify LRAPA's responses to comments. Since DEQ received numerous comments on this category and responded to those comments during their rulemaking adopted in April 2015, much of this response is taken directly from DEQ's response.*

## Summary of Comments and LRAPA Responses

### Category 0: Greenhouse gas permitting rules

*In 2011, LRAPA 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 were not affected by the Supreme Court’s decision and remain in effect, whereas for EPA and many states, the Court’s ruling took effect immediately. The discrepancy between federal and state requirements created uncertainty for DEQ, the regulated community and public so DEQ recommended and EQC adopted a temporary rule on November 5, 2014 that aligned DEQ’s rules with the Supreme Court decision. LRAPA did not adopt a temporary rule since there were no relatively new sources that would potentially be affected by the discrepancy. Broadcom/Avago would have been affected but they sold the former Hynix facility in 2017 and did not apply for a permit for semiconductor activities that would have occurred had they decided to manufacture cell phone components at the Eugene factory.*

*In August and September 2014, DEQ requested comments on whether DEQ should change its rules to follow the Supreme Court’s ruling or retain those elements that the Court struck down. LRAPA requested comments on this same topic in October of 2017. In their rulemaking DEQ received comments supporting both approaches. To help DEQ determine its final proposal, DEQ considered the following question:*

***Are there significant environmental benefits in keeping the current regulations that make a source subject to Title V permitting and PSD for greenhouse gases alone?***

#### Title V

*Title V is a permitting program required by the Clean Air Act Amendments of 1990. The operating permit program streamlines the way federal, state, tribal, and local authorities regulate air pollution by consolidating all air pollution control requirements into a single, comprehensive "operating permit" that covers all aspects of a source's year-to-year air pollution activities. The program is designed to make it easier for sources to understand and comply with control requirements, and results in improved air quality. It does not impose new or additional regulations, and does not make any regulations more stringent.*

*In Oregon, DEQ’s and LRAPA’s Air Quality program issue two types of permits: Air Contaminant Discharge Permits and Title V permits. The Air Contaminant Discharge Permit program existed before the Title V program was created. When the 1990 Clean Air Act Amendments came into being, DEQ elected to create the Oregon Title V permit program while also retaining the Air Contaminant Discharge Permit program; LRAPA has the authority to implement the Oregon Title V permit program in Lane County. Two of the main differences between these programs have to do with the sources they apply to and citizen lawsuit provisions, as described below:*

<b>Title V</b>	<b>Air Contaminant Discharge Permit</b>
<i>Applies to sources that emit 100 tons per year or more of any regulated air pollutant other than Hazardous Air Pollutants, and to sources that emit 10 tons per year or more of any single Hazardous Air Pollutant or 25 tons per year or more of any combination of Hazardous Air Pollutants.</i>	<i>Applies to sources that emit less than 100 tons per year or more of any regulated air pollutant other than Hazardous Air Pollutants, and to sources that emit less than 10 tons per year or more of any single Hazardous Air Pollutant and less than 25 tons per year or more of any combination of Hazardous Air Pollutants.</i>
<i>Title V has a citizen lawsuit provision which allows citizens to enforce Title V</i>	<i>There is no citizen lawsuit provision for Air Contaminant Discharge Permits.</i>

## Summary of Comments and LRAPA Responses

### Category 0: Greenhouse gas permitting rules

permits by filing a lawsuit if the permitting agency does not appropriately enforce the permit.	
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Both types of permits perform the same function: they specify the regulations that a permitted source is subject to and how the source must demonstrate compliance with those regulations. Since Title V does not increase the stringency of the regulations, both types of permits are equally stringent. There is no environmental benefit associated with Title V permits above and beyond the benefits of Air Contaminant Discharge Permits and therefore no environmental reason for retaining the provision that makes sources subject to Title V solely on the basis of their greenhouse gas emissions.

#### Prevention of Significant Deterioration

Prevention of Significant Deterioration is a pre-construction permitting program that applies to large sources located in attainment or unclassified areas. Since there is no ambient air quality standard for greenhouse gases, all areas are attainment or unclassified for greenhouse gas emissions.

When a source becomes subject to Prevention of Significant Deterioration the source must perform an air quality analysis and a Best Available Control Technology analysis. These analyses must be performed for each pollutant for which the source makes a major modification (defined in the rules). Prevention of Significant Deterioration can be triggered for one pollutant over the federal major source threshold; once triggered, any other pollutants for which major modifications are made are also included in the Prevention of Significant Deterioration permit evaluation.

In Oregon (including Lane County), a source must be classified as a “federal major source” before it can be subject to this requirement. If LRAPA follows the Supreme Court’s decision, a source could not be classified as a federal major source for greenhouse gases alone. If LRAPA does not follow the Court’s decision, a source could be classified as a federal major source for greenhouse gases alone. The threshold to be a federal major source for greenhouse gases is 100,000 tons per year CO<sub>2</sub>e; in most cases, the threshold for other pollutants is 250 tons per year.

The table below gives three scenarios for a new or modified facility and illustrates the differences between following or not following the Court’s ruling. The differences between the scenarios are noted in bold underlined print.

Scenario A	Scenario B	Scenario C
LRAPA <b><u>does not follow</u></b> the court’s ruling	LRAPA <b><u>follows</u></b> the Court’s ruling	LRAPA <b><u>follows</u></b> the Court’s ruling
Source has GHG emissions over 100,000 tons per year CO <sub>2</sub> e	Source has GHG emissions <b><u>over</u></b> 100,000 tons per year CO <sub>2</sub> e	Source has GHG emissions <b><u>less than</u></b> 100,000 tons per year CO <sub>2</sub> e
Source <b><u>does not have other emissions</u></b> at or over 250 tons per year	Source <b><u>does not have other emissions</u></b> at or over 250 tons per year	Source <b><u>has NOx emissions</u></b> at or over 250 tons per year
Source has a major modification for GHGs	Source has a major modification for GHGs	Source has a major modification for GHGs
Source has a major modification for NOx	Source has a major modification for NOx	Source has a major modification for NOx
<b><u>Result of this scenario</u></b>	<b><u>Result of this scenario</u></b>	<b><u>Result of this scenario</u></b>

## Summary of Comments and LRAPA Responses

### Category 0: Greenhouse gas permitting rules

Source <b>is</b> a federal major source because of GHGs.	Source <b>is not</b> a federal major source.	Source <b>is</b> a federal major source because of NOx.
PSD <b>is</b> triggered by the major modifications for GHG and NOx.	PSD <b>is not</b> triggered by the major modifications for GHG and NOx.	PSD <b>is</b> triggered by the major modifications for GHG and NOx.
Air quality analysis <b>is</b> required for NOx.	Air quality analysis <b>is</b> required for NOx.	Air quality analysis <b>is</b> required for NOx.
BACT analysis <b>is</b> required for GHG and NOx.	BACT analysis <b>is not</b> required for GHG and NOx.	BACT analysis <b>is</b> required for GHG and NOx.

*In all three scenarios, an air quality analysis for NOx is required. This analysis ensures that air quality will not exceed the ambient air quality standards or Prevention of Significant Deterioration Increments defined in the rules.*

*In all three scenarios, an air quality analysis for greenhouse gases is not required. There are no ambient air quality standards for greenhouse gases in which to compare the results.*

*Scenario C illustrates the so-called “anyway source.” The source is subject to Prevention of Significant Deterioration for a pollutant other than greenhouse gases, but greenhouse gases are also subject. Sources in this scenario would be subject to this requirement regardless of whether LRAPA follows the Court’s ruling.*

*The real difference above is that sources in Scenario B would not be required to perform a Best Available Control Technology analysis for any of the pollutants. The remainder of this discussion examines what that means.*

#### Quantity of greenhouse gases regulated

*In June 2014, the Supreme Court of the United States issued a ruling in the following case:*

**UTILITY AIR REGULATORY GROUP v. ENVIRONMENTAL PROTECTION AGENCY ET AL. CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 12–1146. Argued February 24, 2014—Decided June 23, 2014

*In this ruling, the Supreme Court came to the following conclusions in regard to permitting greenhouse gas emissions:*

- *The Clean Air Act “neither compels nor permits” EPA to require major emitting facilities to obtain Prevention of Significant Deterioration and Title V permits “on the sole basis” of their greenhouse gas emissions.*
- *Thus, EPA need not “tailor” the Act’s major-source thresholds to avoid an administrative debacle that would result from requiring permits of small, non-industrial facilities, millions of which emit enough CO2 to qualify as “major” sources.*
- *More importantly, EPA’s Tailoring Rule, which rewrote the “major” source applicability thresholds from 250/100 tons per year, as specified in the statute, to 100,000 tons per year, is “impermissible” — an exercise of power “beyond the bounds” of the agency’s “statutory authority.”*
- *EPA “reasonably interpreted” the Act to require large industrial facilities already subject to Prevention of Significant Deterioration for conventional air pollutants to comply with “best available control technology” standards for greenhouse gases.*

## Summary of Comments and LRAPA Responses

### Category 0: Greenhouse gas permitting rules

- *Although Best Available Control Technology for CO<sub>2</sub> could require some energy efficiency improvements, EPA's Prevention of Significant Deterioration and Title V Permitting Guidance for Greenhouse Gases also contemplates other, "more traditional end-of-stack Best Available Control Technology technologies."*
- *The Court's overall conclusion: "EPA's decision to require Best Available Control Technology for greenhouse gases emitted by sources otherwise subject to Prevention of Significant Deterioration review is, as a general matter, a permissible interpretation of the statute."*

*On pages 9 and 10, the Court's document cited above states that EPA provided the following testimony during the trial:*

*"... "anyway" sources account for roughly 83% of American stationary-source greenhouse-gas emissions, compared to just 3% for the additional, non-"anyway" sources EPA sought to regulate ...."*

*LRAPA and DEQ interpret EPA's testimony as follows: 86 percent of the total American stationary-source greenhouse gas emissions could be subject to Prevention of Significant Deterioration if both "anyway" and non-"anyway" sources are regulated; the percentage drops from 86 to 83 percent if non-"anyway" sources are not regulated. LRAPA and DEQ do not believe these percentages can be directly applied to Oregon because the types of emissions sources in Oregon may not reflect national averages, but EPA's estimates serve to indicate that the majority of greenhouse gas emissions could still be regulated under Prevention of Significant Deterioration regardless of whether Oregon follows the Court's ruling or not.*

*Sources become subject to Prevention of Significant Deterioration infrequently and the percentages discussed in the preceding paragraph refer to all of the sources that could potentially, but won't necessarily, become subject.*

### Greenhouse gas Best Available Control Technology determinations

*The purpose of a Best Available Control Technology analysis is to evaluate emission control options and to determine which, if any, must be used. This analysis is often referred to as a "top-down" analysis and consists of the following 5 step process:*

- Step 1 – Identify all available control options*
- Step 2 – Eliminate technically infeasible options*
- Step 3 – Rank the remaining control options*
- Step 4 – Evaluate economic, energy, and environmental impacts*
- Step 5 – Select Best Available Control Technology*

*It is possible the analysis will determine that an emission control system must be installed. It is also possible for the analysis to determine that no emission controls are feasible; this can occur at Step 2 or Step 4. The individual steps are described in more detail below.*

*In Step 1, all available control options must be identified. The control option has to exist and be commercially available.*

*In Step 2, the identified options are reviewed and any that are found to be technically infeasible are eliminated. Emission control options are technically feasible if they are in use by other facilities in the same industry or at facilities that have processes that are similar enough to conclude that the emission*

## Summary of Comments and LRAPA Responses

### Category 0: Greenhouse gas permitting rules

*control will work for the process being considered in the review. If none of the options are technically feasible, the review is done and the determination is no control.*

*In Step 3, all control options that are considered technically feasible (if any) are ranked by effectiveness, with the most effective ranked first, the next most effective ranked second, and so on to the least effective.*

*In Step 4, the first-ranked option is reviewed for economic, energy, and environmental impacts. If any of these impacts are found to be unacceptable, that option is rejected and the second-ranked option is reviewed. If the second-ranked option is rejected, then the third-ranked option is reviewed. This “top-down” review continues until an option is found to have acceptable economic, energy, and environmental impacts. It is possible for all options to be rejected.*

*In Step 5, the Best Available Control Technology is determined to be the highest-ranking option reviewed in Step 4 that is not rejected because of economic, energy, or environmental impacts. If all options are rejected, the determination is no control.*

*The following review is not a Best Available Control Technology analysis, but is informed by LRAPA’s and DEQ’s knowledge of the process and the greenhouse gas emission control options that are currently available. Greenhouse gas emissions can broadly be divided into two categories: combustion emissions and high global warming potential gases.*

*Combustion emissions refer to gases emitted by devices that burn fuel. Combustion emissions account for most greenhouse gas emissions, are emitted by a large number of sources ranging from large electrical power plants to cars and home furnaces, and consist mostly of carbon dioxide.*

*High global warming potential gases are typically fluorine-containing gases, such as hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride. They have a global warming effect that is hundreds or thousands of times more potent than carbon dioxide. The global warming potential of a gas is a measure of how potent it is compared to carbon dioxide. The global warming potential of sulfur hexafluoride, for example, is 23,900; this means one ton of sulfur hexafluoride has the same effect as 23,900 tons of carbon dioxide. High global warming potential gases are used as process gases in only a few industries, including the semiconductor manufacturing industry.*

*According to EPA’s website (<http://epa.gov/climatechange/ghgemissions/gases/fgases.html>) perfluorocarbons are compounds produced as a by-product of various industrial processes associated with aluminum production and the manufacturing of semiconductors. They generally have long atmospheric lifetimes and high global warming potentials. Sulfur hexafluoride is used in magnesium processing and semiconductor manufacturing, as well as a tracer gas for leak detection. HFC-23 is produced as a by-product of HCFC-22 production.*

#### Combustion greenhouse gases:

*With respect to combustion emissions, greenhouse gas emission control options are very limited. There are no emission control devices for greenhouse gases. One option is underground sequestration of carbon dioxide. This involves injecting the carbon dioxide deep into the ground. This option would only be effective if the geological formation would permanently trap the gases underground, either by chemical reaction or by effectively sealing off the gases so they could not percolate upward. If neither of these conditions can be met, the gases will eventually leak back into the atmosphere. This technology is believed to be feasible, but the necessary geological formations are not available everywhere, so sequestration is not a broadly available option. Underground sequestration is illegal in Oregon because injecting wastes underground is*

## Summary of Comments and LRAPA Responses

### Category 0: Greenhouse gas permitting rules

*prohibited by the underground injection control rules (OAR Chapter 340 Division 44) administered by DEQ's water quality permitting program.*

*The most viable option for reducing greenhouse gas emissions is to simply burn less fuel; this means using energy-efficient equipment so that less fuel can be burned for the desired output. Energy efficiency is generally regarded as the Best Available Control Technology for combustion greenhouse gases. Energy represents a major on-going operating cost for many industries. Most are likely to install energy-efficient equipment regardless of whether LRAPA follows the Court's ruling.*

*In summary, there are limited Best Available Control Technologies to reduce combustion greenhouse gas emissions beyond increasing energy efficiency, and businesses may seek ways to increase energy efficiency voluntarily.*

#### Non-combustion greenhouse gases:

*With respect to high global warming potential gases, the industry of greatest interest in Oregon is the semiconductor industry. EPA has worked with the U.S. Semiconductor Industry Association in their voluntary efforts to reduce high global warming potential greenhouse gas emissions by following a pollution prevention strategy. As far back as 1996, Hynix (in Eugene), Intel (in Hillsboro), and the U.S. Semiconductor Industry Association formalized an early voluntary commitment for perfluorocarbon reduction in a memorandum of understanding with EPA. Intel met the goal to reduce company-wide absolute perfluorocarbon emissions 10% below 1995 levels by the year 2010 in spite of the fact that manufacturing volumes have increased roughly fourfold since 1995.*

*Reductions were accomplished in part by process changes, partly by using different gases, and partly by the use of greenhouse gas emission control devices, known as point of use devices. For this industry, there is an actual emission control option that could be considered in a Best Available Control Technology analysis. Since point of use devices are the only option DEQ and LRAPA are aware of, a Best Available Control Technology analysis would be limited to considering that single option. Because point of use devices are available and in use, they cannot be rejected on the grounds of being technically infeasible. DEQ has not done a cost analysis, but it appears that such devices are cost-effective and do not have excessive environmental or energy impacts. It's likely that point of use devices would be considered the Best Available Control Technology, but since they are already in use, a Best Available Control Technology analysis would likely conclude a source should "continue doing what you're already doing; that is, continue using point of use devices."*

*In summary, for the semiconductor industry, a greenhouse gas Best Available Control Technology analysis would likely result in no change from current greenhouse gas emission control practices.*

#### Non-greenhouse gas Best Available Control Technology determinations

*When Prevention of Significant Deterioration is triggered, all pollutants for which a major modification has been made become subject to it. That is why air quality and Best Available Control Technology analyses are required for NO<sub>x</sub> as well as greenhouse gases in Scenarios A and C. In Scenario B, which represents the case of non-"anyway" sources if LRAPA follows the Court's ruling, Best Available Control Technology determinations would not be required for any pollutants.*

*In Scenario A where LRAPA would not follow the Court's ruling, DEQ and LRAPA estimate there is likely little to be gained from Best Available Control Technology determinations for greenhouse gases. But emission control devices or methods do exist for other pollutants and are in common use, so such determinations for non-greenhouse gas pollutants could result in lower emissions of those pollutants. Thus, the environmental benefit of not following the Court's ruling pertains mostly to pollutants other than*

## Summary of Comments and LRAPA Responses

### Category 0: Greenhouse gas permitting rules

greenhouse gases since Best Available Control Technology would be required for these other pollutants but would not be required in Scenario B. The question here is whether or not the additional analyses for non-greenhouse gas pollutants would have a significant environmental benefit.

First, DEQ and LRAPA estimate that the majority of sources that could be subject to Prevention of Significant Deterioration will be “anyway” sources, and therefore would be subject to it regardless of whether or not LRAPA follows the Court’s ruling. This is borne out by a DEQ review in 2015 of Prevention of Significant Deterioration permit applications received since greenhouse gases became regulated on May 1, 2011. Since then, six sources (all regulated by DEQ) have triggered this process for greenhouse gases; of these, four were “anyway” sources and two were non-“anyway” sources.

Second, an air quality analysis<sup>1</sup> is required for all emission increases of a Significant Emission Rate<sup>2</sup> or more, regardless of whether or not LRAPA follows the Court’s ruling. The air quality analysis ensures that impacts from emissions will not cause a significant adverse impact on air quality. There would not be a direct requirement to install emission control equipment for sources that do not trigger Prevention of Significant Deterioration but the air quality analysis can indirectly have that result. If a source’s impacts are over the allowed levels, the source could install emission control equipment to reduce the air quality impact if it wanted to go forward with the project.

- Notes: 1. An air quality analysis is required for criteria pollutants, for which there are ambient air quality standards. For pollutants such as greenhouse gases, for which there are no ambient air quality standards, an air quality analysis is not required.  
2. Significant Emission Rate is pollutant-specific and ranges from 10 tons per year for PM2.5 to 100 tons per year for CO.

The purpose of the greenhouse gas rules is to regulate greenhouse gases, not other pollutants. While there could be environmental benefits from requiring Best Available Control Technology analyses for non-greenhouse gas pollutants at non-“anyway” sources, there is no demonstrated need to require those additional analyses.

The following six Oregon facilities are the only currently known facilities (as of DEQ’s 2015 rulemaking) that have greenhouse gas emissions exceeding the Title V and Prevention of Significant Deterioration threshold of 100,000 tons per year. None of these facilities emit other regulated pollutants at levels that require a Prevention of Significant Deterioration permit; Intel and Oregon LNG emit, or could emit, other pollutants at levels that require a Title V permit. All of these facilities are currently regulated under Air Contaminant Discharge Permits except for Owens Corning whose Title V permit was recently issued. None of these facilities are located in Lane County.

Industry	Facility	Application Status (DEQ’s stated status in their 2015 Staff Report)
Semiconductor manufacturer	Intel Hillsboro and Aloha	Submitted Title V permit application, on hold pending issuance of NSR permit. Submitted NSR permit application. Prevention of Significant Deterioration application not required under temporary rule and proposed permanent rule.
Semiconductor manufacturer	On Semiconductor Gresham	Title V permit application for greenhouse gases not required under temporary rule and proposed permanent rule.
Fertilizer and nitric acid manufacturing	Dyno Nobel St. Helens	Submitted Title V permit application, not required under temporary rule and proposed permanent rule, on hold pending permanent rule adoption
Liquefied natural gas exporting	Oregon LNG Warrenton	Submitted Prevention of Significant Deterioration permit application for greenhouse gases alone, not required under temporary rule and proposed permanent rule, on hold pending

**Summary of Comments and LRAPA Responses**

Category 0: Greenhouse gas permitting rules

		<i>permanent rule adoption. Title V application required one year after startup.</i>
<i>Ethanol production</i>	<i>Cascade Kelly Holdings Clatskanie</i>	<i>Title V permit application for greenhouse gases not required under temporary rule and proposed permanent rule.</i>
<i>Extruded polystyrene foam manufacturing</i>	<i>Owens Corning foam insulation plant NE Portland-Troutdale</i>	<i>Submitted Title V permit application, Title V permit issued</i>

Response 1 - Conclusion

*Based on the discussion above, there is little environmental benefit to be gained by making non-“anyway” sources subject to Title V and Prevention of Significant Deterioration for greenhouse gases. LRAPA recommends the Board adopt the proposed rule amendments without changes.*

Comment 2: LRAPA is in a rush to weaken its own GHG rules. LRAPA’s claim in the staff report that having more stringent GHG rules in Lane County unfairly burdens local polluters is weak, speculative, and without evidence.

LRAPA received this comment from commenter number 9 listed in the Commenter section below.

Response 2:

*LRAPA disagrees with this comment. The relevant statement in the staff report is: “LRAPA’s rules continue to require Prevention of Significant Deterioration (PSD) and Title V permits for greenhouse gases alone, causing inequity for facilities located in Lane County” (page 14, under category 6). It is a fact that EPA, DEQ and many other states have revised their rules (or automatically had their rules revised for state/local agencies operating under a “delegated” federal program) to align them with the 2014 Supreme Court decision. This does not require further research since it is true that LRAPA’s regulations currently require Title V and PSD permits for greenhouse gases alone while DEQ and EPA do not. A PSD permit for greenhouse gases alone would currently cost \$49,082, as compared to a \$14,023 permit fee if the rules were to be changed as proposed.*

*Furthermore, LRAPA has deliberated over these proposed regulations for many years. Unlike DEQ, LRAPA did not adopt temporary rules to address the Supreme Court decision in 2014. DEQ adopted a temporary version of these rules in 2014 and adopted permanent rules in April 2015. LRAPA is now proposing these changes to be adopted almost 3 years after the DEQ adoption and almost 4 years after the DEQ temporary rule adoption and the Supreme Court decision.*

**Summary of Comments and LRAPA Responses**

Category 1: Clarify and update air quality rules

Comment 1: The commenter supports the proposed clarifications and updates around excess emissions.

LRAPA received this comment from commenter number 9 listed in the Commenter section below.

Response 1: *LRAPA appreciates the comments received. LRAPA did not change the proposed rules in response to this comment.*

**Summary of Comments and LRAPA Responses**  
**Category 2: Update particulate matter standards**

Comment 1: We are concerned with the proposed requirement that stockpiles be covered to control fugitive dust emissions. This requirement is unnecessary, cost prohibitive, and may lead to detrimental results that would otherwise be avoided by using best practices for dust suppression. We request that the requirement to cover stockpiles be removed from the permit and replaced with a general requirement to mitigate dust using generally accepted industry practices. It should be the outcome that we value, not the method.

LRAPA received this comment from commenters number 2 and 6 listed in the Commenter section below.

Response 1:

*Since as far back as 1986 LRAPA's Title 48 has had the requirement that reasonable precautions to prevent particulate matter from becoming airborne shall include, but not be limited to precautions such as full or partial enclosures of stockpiles. LRAPA has not proposed any revisions to the list of reasonable precautions in this rulemaking.*

*If the best practices for dust suppression are effective and as a result there are no fugitive particulate emissions associated with your stockpiles, you will not be required cover your stockpiles. However, by rule (LRAPA 48-015), if there are still fugitive emissions associated with the stockpiles, you are required to take additional reasonable precautions to prevent fugitive particulate emissions from becoming airborne which may include covering stockpiles. Covering of stockpiles would not be required in cases where doing so would be unreasonable.*

*Additionally, DEQ's rules contain the same reasonable precaution, and LRAPA is unable to remove the covering of stockpiles from our rules since LRAPA's rules are required to be at least as stringent as Oregon rules. LRAPA did not change the rule.*

Comment 2: The production of aggregate and concrete creates a certain amount of dust during normal operations. In Oregon, because we have generally a wet climate, dust from our operations needs to be controlled during the dry summer months. Oregon's mostly wet weather is a natural dust suppression agent. It generally dampens fugitive dust from production equipment as well as haul roads, just as it does for agricultural or forest operations. Dust issues for our industry are seasonal in nature, and therefore generally need to be controlled only during the summer months or in dry climates.

LRAPA received this comment from commenters number 2 and 6 listed in the Commenter section below.

Response 2:

*If the wet climate is effective at minimizing fugitive particulate emissions associated with your stockpiles, no additional reasonable precautions to prevent fugitive particulate emissions from becoming airborne would be required. However, by rule, if there are still fugitive emissions associated with the stockpiles, you are required to take additional reasonable precautions to prevent fugitive particulate emissions from becoming airborne.*

*Additionally, DEQ's rules contain the same reasonable precaution, and LRAPA is unable to remove the covering of stockpiles from our rules since LRAPA's rules are required to be at least as stringent as Oregon rules. LRAPA did not change the rule.*

## Summary of Comments and LRAPA Responses

### Category 2: Update particulate matter standards

Comment 3: Industry best management practices for dust control include use of water, vegetative cover, buffer areas and limiting the drop height of loading equipment and stockpiles. These are all effective, reasonable cost alternatives to mitigate fugitive dust. They are also the most common condition imposed on aggregate and concrete operations by local governments, DOGAMI, and other agencies.

LRAPA received this comment from commenters number 2 and 6 listed in the Commenter section below.

Response 3:

*Since as far back as 1986 LRAPA's Title 48 has had the requirement that reasonable precautions to prevent particulate matter from becoming airborne shall include, but not be limited to precautions such as full or partial enclosures of stockpiles. LRAPA has not proposed any revisions to the list of reasonable precautions in this rulemaking.*

*LRAPA agrees, use of water, vegetative cover, buffer areas and limiting the drop height of loading equipment and stockpiles are best practices for dust suppression, and if they prevent fugitive particulate emissions, no further actions are required. However, by rule (LRAPA 48-015), if there are still fugitive emissions associated with the stockpiles even after application of best practices, additional reasonable precautions may be required to prevent fugitive particulate emissions from becoming airborne.*

*Additionally, DEQ's rules contain the same reasonable precaution, and LRAPA is unable to remove any items on the list of possible reasonable precautions from our rules since LRAPA's rules are required to be at least as stringent as Oregon rules. LRAPA did not change the rule.*

Comment 4: Aggregate processing yards often have a dozen or more stockpiles spread out over several acres. The cost of covering these multiple products either through the construction of buildings or tarping over the many acres of aggregate production would be infeasible and impractical. In addition, many of the aggregate products simply do not create fugitive dust. For instance, concrete aggregates, cobble rock, pea gravel, and drain rock do not have fines that create fugitive dust. Requiring uniform treatment of aggregate products avoids the reality that many of the products we produce do not generate dust. Further, many concrete and road base aggregates must be kept wet as a part of their performance requirements in subsequent use.

LRAPA received this comment from commenters number 2 and 6 listed in the Commenter section below.

Response 4:

*Since as far back as 1986 LRAPA's Title 48 has had the requirement that reasonable precautions to prevent particulate matter from becoming airborne shall include, but not be limited to precautions such as full or partial enclosures of stockpiles. LRAPA has not proposed any revisions to the list of reasonable precautions in this rulemaking.*

*By rule, if there are fugitive emissions associated with a stockpile, you are required to take reasonable precautions to prevent fugitive particulate emissions from becoming airborne. If there are no fugitive particulate emissions associated with a stockpile, you would not be required take action to prevent fugitive emissions.*

*Additionally, DEQ's rules contain the same reasonable precaution, and LRAPA is unable to remove the covering of stockpiles from our rules since LRAPA's rules are required to be at least as stringent as Oregon rules. LRAPA did not change the rule.*

## Summary of Comments and LRAPA Responses

### Category 2: Update particulate matter standards

Comment 5: We are concerned that covering stockpiles with tarps, as an example, would create unnecessary hazards for workers trying to drag or hoist tarps over tall and unstable stockpiles. Wheel loaders and other loading equipment would constantly have to remove the tarping and replace it as they are using or removing aggregates from the various stockpiles. This would increase loading time and production expenses, and generate dust that would otherwise be mitigated by sprinkling the piles with water.

LRAPA received this comment from commenters number 2 and 6 listed in the Commenter section below.

Response 5:

*Since as far back as 1986 LRAPA's Title 48 has had the requirement that reasonable precautions to prevent particulate matter from becoming airborne shall include, but not be limited to precautions such as full or partial enclosures of stockpiles. LRAPA has not proposed any revisions to the list of reasonable precautions in this rulemaking.*

*If sprinkling a pile with water mitigates the fugitive particulate emissions associated with that pile, LRAPA will not require covering the pile.*

*Additionally, DEQ's rules contain the same reasonable precaution, and LRAPA is unable to remove the covering of stockpiles from our rules since LRAPA's rules are required to be at least as stringent as Oregon rules. LRAPA did not change the rule.*

Comment 6: The commenter prefers EPA Method 9 due to the requirement that the person monitoring the emissions be properly trained and certified, but goes on to state that the three-minute average seems sufficient as a methodology.

LRAPA received this comment from commenter number 9 listed in the Commenter section below.

Response 6:

*The proposed rules would amend all opacity standards, both countywide and industry specific, to retain the 3-minute aggregate limit but specify the data reduction method needed to evaluate opacity. Opacity readers would still be EPA Method 9 certified, but would use EPA's Method 203B as the reference method for data reduction procedures to evaluate 3-minute aggregate periods. Permits would continue to specify that opacity be determined in accordance with a "Modified EPA Method 9". "Opacity" would continue to be defined in the rules, but it would specify EPA's Method 203B as the reference method data reduction procedures to measure 3-minute aggregate periods.*

Comment 7: The commenter supports the fugitive emissions control plan requirement to prevent visible emissions.

LRAPA received this comment from commenter number 9 listed in the Commenter section below.

Response 7:

*LRAPA appreciates the comments received. LRAPA did not change the proposed rules in response to this comment.*

Comment 8: A case in point where LRAPA should employ the opacity test and the fugitive emissions control requirement would be the visible emissions of dust and particulate matter coming from the metal crushing equipment and the conveyor belt system at Pacific Recycling. Our group filed a complaint about the

**Summary of Comments and LRAPA Responses**

**Category 2: Update particulate matter standards**

emissions earlier in 2017, and asked LRAPA to ensure that the business reduce the particulate emissions. We would like to know that the proposed updates would help protect the nearby residents from fugitive emissions produced by this type of operation.

LRAPA received this comment from commenter number 9 listed in the Commenter section below.

Response 8:

*To clarify, for fugitive emissions, there is no “opacity test”. The observer must use EPA Method 22 to evaluate visible emissions. That reference method simply involves a visual survey to determine if fugitive emissions are occurring or not, but does not require quantification of the opacity. Opacity reading is possible at non-fugitive emission sources (e.g., “smoke stacks”).*

*LRAPA agrees that these rules can be used to address fugitive emissions at all regulated sources, including the facility mentioned by the commenter.*

*LRAPA did not change the proposed rules in response to this comment.*

**Summary of Comments and LRAPA Responses**

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

Comment 1: The commenter supports the proposed changes to clarify insignificance and permitting levels for these activities.

LRAPA received this comment from commenters number 9 listed in the Commenter section below.

Response:

*LRAPA appreciates the comments received. LRAPA did not change the proposed rules in response to this comment.*

**Summary of Comments and LRAPA Responses**

**Category 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**

Comment 1: LRAPA should not adopt the proposed the Sustainment and Re attainment area designations. Rather than take short-cuts, LRAPA should follow the standard procedure which involves Redesignation back to attainment after LRAPA drafts a maintenance plan and has it adopted into the State Implementation Plan. LRAPA should use other ways to have attainment in Oakridge.

LRAPA received this comment from commenters number 9, 13, and 14 listed in the Commenter section below.

Response 1:

*LRAPA disagrees with the commenter. LRAPA is continuing to work through the existing steps to achieve an attainment area designation. The proposed re attainment area rules do not replace the existing federally-required elements of an area designated as nonattainment, as the Oakridge area is currently designated. A*

## Summary of Comments and LRAPA Responses

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

*Maintenance Plan is being developed in coordination with DEQ and EPA, but it is an involved process that is scheduled to continue well into 2018 or early 2019. A key foundational component of the Maintenance Plan is the Oregon Solutions Cooperative Agreement, signed by multiple partners on December 7, 2017, for the Oakridge Woodsmoke Mitigation Plan. The Attainment plan was adopted by the EQC in January 2017 and EPA published it on November 14, 2017, for comment in the federal register (82FR52683) until December 14, 2017. No adverse comments were received, and final EPA approval is expected by mid-February 2018.*

*LRAPA is not relying on the new area designations to bring air quality in Oakridge into attainment, nor does LRAPA intend for the new area designations to replace nonattainment designations or nonattainment planning. While the new reattainment area may be part of the overall approach that will be used by LRAPA’s air quality planning program, EPA, and local governments to try to bring an area back into compliance with National Ambient Air Quality Standards, it primarily affects the air quality permitting program, not the air quality planning program.*

*LRAPA proposed the new reattainment area designation to at least partially eliminate a permitting roadblock that exists when air quality meets an ambient air quality standard but the area is still designated as nonattainment. The reattainment area designation, along with other revisions to the new source review permitting program, is also intended to help address the primary source or sources of air quality problems in areas like Oakridge by encouraging new or expanding sources to obtain offsets from the primary source or sources of the air quality problem. LRAPA does not see the new area designations as a replacement for the existing regulatory structure that addresses areas with air quality problems, but as an addition to that structure.*

*LRAPA continues to focus on the key components of the Updated Attainment Plan including:*

- *Code enforcement officer hired by City of Oakridge with LRAPA field compliance department support;*
- *Continued HeatSmart woodstove removals upon home sale, and continued ductless heat pump installations by Lane Electric;*
- *Tightened City ordinances, including 20% opacity limits and lower curtailment cutpoints; and*
- *Extended daily red-yellow-green woodburning advisory season (from Nov-Feb to Oct-May) with stricter forecasting prediction requirements.*

*LRAPA did not change the proposed rules in response to this comment.*

Comment 2: LRAPA cannot discount the possibility that the future industrial facilities might exacerbate violations of particulate matter air quality standards. We do not support creating offsets for those polluters adding more particulate emissions to the Oakridge area. Even if offsets are directed at replacing residential wood stoves, it must be acknowledged that point source emissions will occur continually, including during air stagnation alerts and inundations of wild fire smoke. Thus, it is worrisome that under the proposed rules for a reattainment designation, “new and modified facilities that fall below the federal major source threshold would be subject to less stringent requirements.” If anything, an area with a history of poor air quality such as Oakridge should not loosen rules, but maintain strict requirements for attainment designations. LRAPA’s proposed plan is should be precautionary given the signals from effects such as climate change, excessive heat, air stagnations, and more wildfires, and is merely a work-around to loosen the air quality rules.

LRAPA received this comment from commenter number 9 listed in the Commenter section below.

Response 2:

### Summary of Comments and LRAPA Responses

Category 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 disagrees that new and modified facilities that fall below the federal major source threshold will be under a lesser level of scrutiny. DEQ and LRAPA conferred with EPA Region 10 (from 2012 to 2017) in the development of these rules to ensure that these rule proposals would not be considered backsliding and would be approvable. The requirements for sources that were formerly subject to the existing New Source Review program will generally continue to apply even though some of those sources will now be covered by the State New Source Review program.*

*A source with “significant” emissions (i.e., over the Significant Emission Rate) seeking to locate in an area designated as nonattainment that meets National Ambient Air Quality Standards must obtain offsets and demonstrate net air quality benefit. The current rules make obtaining a permit very difficult or impossible. In this rulemaking, the net air quality benefit requirements have been revised to replace the nearly impossible to meet requirement with one that is not impossible to meet but is still protective of air quality. LRAPA does not claim that the new requirement is easy to meet, as it is intended to protect air quality in an area where air quality is already close to or exceeding a National Ambient Air Quality Standard.*

*LRAPA is aware that emissions from industrial facilities are continual year-round, or even higher during the winter months (e.g. wood-fired boiler emissions can be higher due to increased heat needs in winter months). LRAPA’s belief that residential wood burning is a major contributor to 24-hour PM2.5 National Ambient Air Quality Standards exceedances in Oakridge is based on examination of the PM2.5 monitoring results compared to time of day and overnight temperatures. Exceedances occur on cold winter nights when wood burning for home heating is high. Despite the clear relationship with residential wood burning, LRAPA does not discount the contribution from other sources, including industry. Although the rules for a reattainment area are structured to encourage obtaining offsets from woodstoves, obtaining all offsets from woodstoves is likely impossible and any non-woodstove offsets will likely be obtained from industrial sources - of which there are currently none in Oakridge. Furthermore, the rules that a new source must comply with are intended to ensure that the new emissions do not exacerbate the existing air quality problems. The new rules change, but do not eliminate the stringent requirements that a new industrial source must meet.*

*LRAPA did not change the proposed rules in response to this comment.*

### Summary of Comments and LRAPA Responses

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

Comment 1: This is not a good time to relax restrictions and rules for Oakridge because that would endanger the public health of the small community. Oakridge, a proposed reattainment area, suffers from air quality problems that are driven by woodstove smoke and air stagnation. LRAPA should not allow any industry coming to Oakridge to pollute in exchange for woodstove emission reductions. LRAPA is proposing to give small industry a “pass”, and be given “free rein” while leaving the people who are just trying to keep warm in the cold.

LRAPA received this comment from commenters number 8, 9, 12 and 14 listed in the Commenter section below.

Response 1:

## Summary of Comments and LRAPA Responses

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

*The responses here are the same provided in Category 4, Comment 2 above since they are very similar comments.*

*LRAPA does not agree that new and modified facilities that fall below the federal major source threshold will be under a lesser level of scrutiny. DEQ and LRAPA conferred with EPA Region 10 in the development of these rules to ensure that these rule proposals would not be considered backsliding and would be approvable. The requirements for sources that were formerly subject to the existing New Source Review program will generally continue to apply even though some of those sources will now be covered by the State New Source Review program.*

*A source with “significant” emissions (i.e., over the Significant Emission Rate) seeking to locate in an area designated as nonattainment that meets National Ambient Air Quality Standards must obtain offsets and demonstrate net air quality benefit. The current rules make obtaining a permit very difficult or impossible. In this rulemaking, the net air quality benefit requirements have been revised to replace the nearly impossible to meet requirement with one that is not impossible to meet but is still protective of air quality. LRAPA does not claim that the new requirement is easy to meet, as it is intended to protect air quality in an area where air quality is already close to or exceeding a National Ambient Air Quality Standard.*

*LRAPA is aware that emissions from industrial facilities are continual year-round, or even higher during the winter months (e.g. wood-fired boiler emissions can be higher due to increased heat needs in winter months). LRAPA’s belief that residential wood burning is a major contributor to 24-hour PM2.5 National Ambient Air Quality Standards exceedances in Oakridge is based on examination of the PM2.5 monitoring results compared to time of day and overnight temperatures. Exceedances occur on cold winter nights when wood burning for home heating is high. Despite the clear relationship with residential wood burning, LRAPA does not discount the contribution from other sources, including industry. Although the rules for a reattainment area are structured to encourage obtaining offsets from woodstoves, obtaining all offsets from woodstoves is likely impossible and any non-woodstove offsets will likely be obtained from industrial sources (of which there are currently none in Oakridge). Further, the rules that a new source must comply with are intended to ensure that the new emissions do not exacerbate the existing air quality problems. The new rules change, but do not eliminate the stringent requirements that a new industrial source must meet.*

*LRAPA did not change the proposed rules in response to this comment.*

Comment 2: LRAPA should pursue other woodstove emission reduction methods by insulating homes, providing grants for woodstove replacements, and promoting electric vehicles. Quality firewood is difficult to obtain and Oakridge could benefit from a program that uses the many downed trees removed from Highway 58 each year to be stored, dried and distributed to residents.

LRAPA received this comment from commenters number 11, 12 and 13 listed in the Commenter section below.

Response 2:

*LRAPA and our partners at the City of Oakridge, the State of Oregon, and the EPA continue to pursue woodstove emission reductions. LRAPA appreciates any innovative suggestions on ways to reduce woodstove emissions such as by providing means for citizens to obtain dry seasoned firewood at low or no cost. In the last few years, LRAPA has partnered with the city, local businesses and non-profits to provide reduced cost dry, seasoned firewood for people meeting low-income criteria. LRAPA promotes using electric vehicles by providing free charging stations at the LRAPA office and having a zero-emission fleet vehicle.*

## Summary of Comments and LRAPA Responses

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

*LRAPA did not change the proposed rules in response to this comment.*

Comment 3: Rather than focusing on industrial development, LRAPA should fine Oakridge so the city officials and residents understand how important is to put in new and cleaner heating devices.

LRAPA received this comment from commenter number 12 listed in the Commenter section below.

Response 3:

*LRAPA strives to work effectively with the City of Oakridge to reduce woodstove emissions and prefers a constructive working relationship to further that goal. Individuals violating smoke opacity requirements are subject to fines through the City of Oakridge Police Department.*

*LRAPA did not change the proposed rules in response to this comment.*

Comment 4: LRAPA is proposing this change as a response to the proposed quarry in the area and this is a bad idea. LRAPA should be concerned with the effects of the proposed rock quarry on TV Butte just east of Oakridge. The blasting and trucks will be adding to air quality problems for the citizens of Oakridge.

LRAPA received this comment from commenters number 10 and 13 listed in the Commenter section below.

Response 4:

*LRAPA disagrees with the commenter that the proposed changes are a response to any potential quarry development. LRAPA and DEQ began working on these proposed rules in 2012. DEQ adopted their version in April 2015. LRAPA is not entirely aware of the timelines for the proposed quarry and has no regulatory authority to approve or deny any quarry or mine. Those decisions are made by the Oregon Department of Geology and Mineral Industries (DOGAMI), the Lane County Planning Commission, the Lane County Commissioners, and/or the Oregon Lane Use Board of Appeals (LUBA).*

*LRAPA is concerned with dust generation in the Oakridge area and all parts of Lane County. As mentioned above, LRAPA does not regulate the blasting or mining at quarries, but LRAPA can and does regulate industrial activity that may be associated with quarries by issuing permits with conditions to limit or reduce dusty emissions. Permits issued to aggregate industrial activities in Lane County include rock crushers, concrete batch plants, and asphalt plants. The particulate matter emitted from these sources relatively minor and are mostly "dust" with relatively coarse particle sizes (PM10) – not the fine particulate variety of "smoke" that is the source of the Oakridge nonattainment (PM2.5). For example, fine particulate (PM2.5) at typical rock crushing facility are only about 3-4% of the dust (PM10) generated. Aggregate industry sources would likely not have emissions of fine particulate at levels to be in the realm of the reattainment area proposed changes. All aggregate industrial sources permitted in Lane County have emissions less than the Significant Emission Rate for PM2.5 of 10 tons/year. Sources potentially affected by the proposed reattainment area rules would have emissions over 10 tons/year PM2.5.*

*LRAPA did not change the proposed rules in response to this comment.*

## Summary of Comments and LRAPA Responses

### Category 7: Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting

Comment 1: LRAPA should establish a de minimis cutoff of 250 gallons/year for the surface coating category. Our company holds a Basic permit for our in-shop spray facility. In compliance with LRAPA, in March 2017, we reported application of 113 gallons of coatings with contents on the list of 633 reportable chemicals. We found 11 chemicals in quantities varying from 0.5 ounce to 3.75 gallons per year, a total of 18 gallons. Five of the 11 chemicals were reported in ounces per year. It cost us about 40 hours of staff time, valued at \$3,000, to discover this. We see no public or environmental benefit to warrant this substantial cost. We are supportive of the mission of LRAPA and proud of our own environmentally-conscious policies and practices. If LRAPA cannot simply match the DEQ cutoff of 250 gallons/month (3,000 gallons/year), we endorse an updated LRAPA de minimis cutoff of 250 gallons/year (only 12x more stringent) rather than the unnecessarily low end of the range at 100 gallons/year (30x more stringent). Please convey my comment to the Board and thanks to all for your efforts.

LRAPA received this comment from commenter number 1 listed in the Commenter section below.

Response 1:

*LRAPA requested comments on a range of 100 gallons/month to 250 gallons/month as de minimis cutoff levels for surface coating operations. LRAPA agrees with the comment and has changed the proposed rule to establish a **250 gallon/year** cutoff for the surface coating category in LRAPA Title 37, Table 1, Part A.7. This is still more stringent than the corresponding DEQ cutoff of **250 gallons/month** (emphasis added). Surface coating operations with actual or projected usages less than these amounts would not be required to obtain an air permit.*

Comment 2: LRAPA should add the following rules around the de minimis cutoff level provisions:

- Require a stringent neighborhood nuisance and trespass protocol. If there are more than 5 complaints from nearby residents per year, LRAPA will initiate an investigation into the air quality control practices and require modifications to reduce impacts to neighbors;
- Require that the facility submit a bi-annual report of their invoices for surface coating products and a production schedule; and
- Review the facility's exemption status every two years to determine that the facility remains under the 100 gallons/year threshold.

LRAPA received this comment from commenter number 9 listed in the Commenter section below.

Response 2:

*LRAPA already has existing nuisance regulations in Title 49 and investigates all complaints received. As part of the implementation of the proposed rules, LRAPA plans to periodically review coating usages to ensure the exempt facilities continue to qualify for the exemption.*

*LRAPA did not change the rule based upon this comment.*

Comment 3: The commenter objects to the proposed cutoff for sawmills and other board products facilities of 5,000 board feet per maximum 8 hour finish product because the rule doesn't specify differences between a sawmill and some wood products facilities that emit other kinds of VOC's and HAP's (for example a veneer plant). Also, these facilities can be required to report and control their emissions because LRAPA must have the means to determine who is polluting, how much they are polluting, how their pollution impacts vulnerable

## Summary of Comments and LRAPA Responses

### Category 7: Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting

nearby neighborhoods and how pollution from small sources contributes to overall levels of air toxics in Lane County. If the issue is that the 7 – 9 businesses are unable to pay permit fees, could LRAPA explore reducing the fee structure for very small manufacturers rather than eliminating the need to have a permit?

LRAPA received this comment from commenter number 9 listed in the Commenter section below.

Response 3:

*The existing and proposed regulations continue to require permits for many types of wood products sources of all sizes. For example, Table 1 in Title 37 requires a permit for “Plywood manufacturing and/or veneer drying” (Part B.57) – regardless of production levels or size. The specific category proposed to be changed is for “Sawmills and/or planing mills and/or millwork and/or wood furniture and fixtures manufacturing”. Numerous sources regulated under that activity (Title 37, Table 1, Part A.9) have been reporting to LRAPA for many years (since the 1990’s at least) and we have extensive experience inspecting the facilities. LRAPA believes these are generally very small sources with nearly negligible amounts of sawdust emission (large particulate matter). As has been done historically, the Agency will continue to respond to all complaints received about unpermitted facilities, and the rules continue to allow us to require permits for sources of concern (Title 37, Table 1, Part B.74 – “All other sources not listed herein that LRAPA determines an air quality concern exists including minor sources of HAPs not elsewhere classified or one which would emit significant malodorous emissions”).*

*The fees for the affected sources are the smallest fees paid by facilities (only gas stations have less annual fees). Additionally, the fees are only part of the problem faced by these small sources; they also have difficulty compiling production records and take a relatively large amount of limited staff time to follow up on late reports and late fee payments. Lowering the fees would potentially not cover the cost of staff time to administer the permitting program for those sources. The proposed change will allow LRAPA to focus our limited resources on more significant air quality issues while still retaining the ability to have oversight and require permitting should future concerns arise.*

*LRAPA did not change the rule based upon this comment.*

Comment 4: The commenter supports including waterborne solutions in the wood preserving permitting requirements. However, wood preservation involves chemicals that are highly volatile and noxious, as well as dangerous to public health. LRAPA should not exclude any wood preserving facility from the requirement to have a permit. The proposal doesn’t recognize that emissions from wood preserving facilities, even if in relatively small quantities compared to a Title V source, can contribute to cumulative deterioration of local air quality as well as nuisance odors.

LRAPA received this comment from commenter number 9 listed in the Commenter section below.

Response 4:

*LRAPA agrees that wood preserving sources using waterborne solutions should be subject to permitting, and that wood preservation involves chemicals that volatilize and can be toxic at levels of significance. However, LRAPA prefers to focus on sources with emissions of greater significance and does not want to intentionally subject very small commercial activities that may include wood preservation using minor quantities of waterborne solutions to unnecessary permitting. The odor complaints received by LRAPA that are attributed to wood preserving sources are almost entirely due the use of oil-based wood preservatives. The specific compound(s) associated with waterborne solutions (e.g. methanol) may contribute to ozone*

**Summary of Comments and LRAPA Responses**

Category 7: Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting

*formation, but LRAPA believes the proposed cutoff level of 1 ton/year allows us to focus the Agency's limited resources on sources of concern while still protecting air quality.*

*LRAPA did not change the rule based upon this comment.*

**Summary of Comments and LRAPA Responses**

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

Comment 1: The commenter supports the proposal to increase fees for ACDP permits to cover the cost of implementing air quality regulations.

LRAPA received this comment from commenters number 9 listed in the Commenter section below.

Response:

*LRAPA appreciates the comments received. LRAPA did not change the proposed rules in response to this comment.*

**Summary of Comments and LRAPA Responses**

Category 9: Public Notice

Comment 1: LRAPA should provide additional time to allow the public more opportunity to review and comment on the proposed rule changes. LRAPA needs to slow down and allow more time for the public to comment.

LRAPA received this comment from commenter number 7 listed in the Commenter section below.

Response 1:

*At their December 7, 2017 meeting the Board reopened the comment period at their meeting from December 8 until December 29, 2017 at 5:00pm to provide additional time for comment. The public comment period was set to close November 8, 2017 at 5:00pm, however, oral comments were allowed at the November 9, 2017 12:30pm Board meeting.*

Comment 2: LRAPA should hold meetings so interested public can attend and learn about the proposed rule changes.

LRAPA received this comment from commenter number 7 listed in the Commenter section below.

Response 2:

*Almost all of these proposed rules were established by DEQ in their corresponding rulemaking adopted by the EQC in April 2015. Because many of the rules adopted by the State increased the stringency of the rule and took effect immediately in Lane County upon adoption, LRAPA has been implementing most of these proposed rule changes since they were adopted in April 2015. LRAPA worked very closely with DEQ during their rulemaking to ensure LRAPA stakeholders and interested parties in Lane County were notified of, and*

## Summary of Comments and LRAPA Responses

### Category 9: Public Notice

*had opportunity to comment on, changes that would likely affect the stringency and consistency of LRAPA's corresponding rules. So that LRAPA's stakeholders and interested parties were notified and made aware of the opportunity for comment and information, LRAPA provided to DEQ a list of 240 interested parties and stakeholders which they included in their email notifications. DEQ also presented to the LRAPA Board of Directors and to the Citizen's Advisory Committee.*

*LRAPA provided opportunity for the public to hear information and learn about the proposed rules at the following public meetings:*

- *Request for reopening the written comment period at the December 7, 2017 Board meeting*
- *LRAPA Citizen's Advisory Committee December 5, 2017 Meeting*
- *Public Hearing at the November 9, 2017 LRAPA Board Meeting*
- *Request for Hearing Authorization at the September 14, 2017 LRAPA Board Meeting*
- *LRAPA Citizen's Advisory Committee July 25, 2017 Meeting*
- *LRAPA Citizen's Advisory Committee May 30, 2017 Meeting*
- *DEQ Public Hearing on their version of these rules (Covered categories 1 through 4, and 6) held at the LRAPA office in Springfield on July 16, 2014 from 6 p.m. to 7:30 p.m. (and five other locations around the state)*
- *DEQ presentation at the June 23, 2014 LRAPA Board Meeting*
- *DEQ presentation at the April 29, 2014 LRAPA Citizen's Advisory Committee Meeting*
- *DEQ presentation at the August 7, 2013 Stakeholder meeting in Eugene (and other locations around the state)*

## Summary of Comments and LRAPA Responses

### Category 10: Other Comments

Comment 1: LRAPA must acknowledge that the Oregon DEQ is working to implement the Cleaner Air Oregon (CAO) rules, which seek to make public health the basis for air quality regulations. The DEQ staff have put countless hours into writing draft rules to strengthen all aspects of emissions reporting, monitoring, analysis of cumulative emission impacts, technological requirements to reduce air toxics and community inclusion in decision-making. The DEQ's counterpart in Lane County, LRAPA, should be striving for the same goals and doing everything possible to support and align itself with Cleaner Air Oregon. Our comments reflect our belief that Oregon will continue to move in the direction of promoting and regulating for cleaner air, less carbon emissions and improved public health outcomes.

LRAPA received this comment from commenters number 9 listed in the Commenter section below.

Response 1:

*LRAPA appreciates the comments received and acknowledges that DEQ is doing and has done extensive work to draft and propose the CAO rules. If the EQC adopts CAO, LRAPA will need to consider LRAPA-specific rule changes; Staff expects the LRAPA Board will ask the Citizen Advisory Committee to review any proposals prior to any LRAPA public hearing or adoption process.*

*LRAPA did not change the proposed rules in response to this comment.*

## Commenters

### Comments received by close of public comment period

The table below lists 14 people and organizations that submitted public comments about the proposed rules by the deadline on Wednesday, November 8, 2017, at 5 pm, at the hearing on Thursday, November 9, 2017 at 12:30pm or by the reopened comment period deadline of Friday December 29, 2017. Original comments are on file with LRAPA.

Commenter Number	Name	Affiliation	Means in Which Comment Was Submitted	Commenter submitted comments under the following categories in the <i>Summary of comments and LRAPA responses</i> section above
1	Ron Saylor	Saylor Painting	Written comment received by November 8, 2017 at 5:00pm	7 (Surface coating source de minimis cutoff)
2	Rich Angstrom	Oregon Concrete & Aggregate Producers Association	Written comment received by November 8, 2017 at 5:00pm	2 (Fugitive emissions and stockpile covering)
3	James Neu	None	Written comment received by November 8, 2017 at 5:00pm	0 (Greenhouse gas permitting)
4	Laura Allen	None	Written comment received by November 8, 2017 at 5:00pm	0 (Greenhouse gas permitting)
5	Zach Mulholland	350 Eugene	Oral testimony at the November 9, 2017 public hearing at 12:30pm and Written comment received by December 29, 2017 at 5:00pm	0 (Greenhouse gas permitting)
6	Libby Morrison	Wildish Sand & Gravel and Aggregate Resource Industry	Oral testimony at the November 9, 2017 public hearing at 12:30pm	2 (Fugitive emissions and stockpile covering)
7	Mysti Frost	Beyond Toxics	Oral testimony at the November 9, 2017	9 (Public notice)

Commenter Number	Name	Affiliation	Means in Which Comment Was Submitted	Commenter submitted comments under the following categories in the <i>Summary of comments and LRAPA responses</i> section above
			public hearing at 12:30pm	
8	Lon Otterby	Many Rivers Group Oregon Sierra Club	Written comment received by December 29, 2017 at 5:00pm	5 (Oakridge Reattainment Area designation)
9	Lisa Arkin	Beyond Toxics	Written comment received by December 29, 2017 at 5:00pm	0 (Greenhouse gas permitting), 1 (Clarify and update air quality rules), 2 (Update particulate matter standards), 4 (Establish two new air quality area designations), 5 (Oakridge Reattainment Area designation), 7 (Adjust industrial and commercial activity levels below which some categories are exempt from permitting), and 8 (ACDP fee increase)
10	Parry Pierce	None	Written comment received by December 29, 2017 at 5:00pm	5 (Oakridge Reattainment Area designation)
11	Trudy Hammond	None	Written comment received by December 29, 2017 at 5:00pm	5 (Oakridge Reattainment Area designation)
12	Diana Gerding	None	Written comment received by December 29, 2017 at 5:00pm	5 (Oakridge Reattainment Area designation)
13	Linda McMahon	Save TV Butte and None (two separate emails)	Written comment received by December 29, 2017 at 5:00pm	4 (Establish two new air quality area designations), and 5 (Oakridge Reattainment Area designation)
14	Michael T. Williams	None	Written comment received by December 29, 2017 at 5:00pm	4 (Establish two new air quality area designations)