

ADMINISTRATIVE RULES

(b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new final certificate under ORS 469B.161 by submitting:

(A) Satisfactory evidence of facility ownership by the new owner or the new lessor, along with information demonstrating that the facility is currently operating and will continue to operate during the remainder of the tax credit period, unless continued operation is waived by the department.

(B) A Tax Credit Recipient Statement, on a form prescribed by the department, which includes the new owner or lessor's name, tax identification number and address.

(c) To be eligible to receive a new final certificate, the facility must meet the requirements of ORS 469B.130 to 469B.169, and any applicable administrative rules, and the new owner or lessor may claim a tax credit under this section only if all moneys owed to the State of Oregon have been paid, the facility continues to operate, unless continued operation is waived by the department, and all conditions in the new final certification are met.

(5) Request for Reconsideration: No later than 60 days after the Director issues an order on a preliminary certification, amendment to a preliminary certification, final certification, or canceling or revoking a final certificate under these rules, the applicant or certificate holder may request reconsideration in writing.

(6) Inspections: After an application is filed under ORS 469B.145 or ORS 469B.161 or a tax credit is claimed under these rules, the Department may inspect the facility. The Department will schedule the inspection during normal working hours, following reasonable notice to the facility operator.

(7) Energy Performance Reporting Requirements: The department may require a facility owner to report on a project's energy performance after receiving final certification. This requirement will apply to projects receiving final certification on or after January 1, 2014.

(a) The department will select projects to report energy performance when the operational data would further the energy goals of the department and the legislative policy described in ORS 469B.133. Facilities required to report energy performance may include those that use or produce renewable energy resources, sustainable building practices facilities and new technologies.

(b) If required to report, an energy performance reporting agreement will be included as a condition of the final certification.

(c) The energy performance reporting agreement will require facility owners to report on an annual basis for up to five years after receiving final certification.

(d) The energy performance reporting agreement will specify the data the facility owner must provide annually. The agreement may also specify energy performance goals.

(e) The department will not require facilities receiving one year tax credits to enter an energy performance reporting agreement.

Stat. Auth.: ORS 469.040 & 469B.161

Stats. Implemented: ORS 469B.130 – 469B.171 & 315.354 – 315.357

Hist.: DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10; Administrative correction 11-23-10; DOE 14-2010, f. & cert. ef. 11-23-10; DOE 3-2011(Temp), f. 4-15-11, cert. ef. 4-18-11 thru 10-14-11; DOE 6-2011, f. & cert. ef. 9-29-11; DOE 7-2011, f. & cert. ef. 10-25-11; DOE 10-2011, f. & cert. ef. 11-30-11; DOE 8-2012, f. & cert. ef. 7-10-12; DOE 1-2013, f. & cert. ef. 5-13-13; DOE 3-2014, f. & cert. ef. 4-1-14

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Department of Environmental Quality Chapter 340

Rule Caption: Align Diesel Grant Program with Federal Guidelines

Adm. Order No.: DEQ 3-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 1-1-2014

Rules Amended: 340-259-0010

Subject: The Environmental Quality Commission amended clean diesel grant and loan program rules to implement Senate Bill 249 (2013). The commission approved these changes by temporary rule Oct. 16, 2013, to allow DEQ to administer federal grants received for clean diesel projects during the current federal grant cycle. The temporary rules expire April 27, 2014.

Brief history:

The 2013 Oregon Legislature unanimously adopted Senate Bill 249. The bill authorized DEQ to administer federal grants for clean diesel projects and to complete the projects according to federal grant guidelines rather than the more limited state guidelines. Authority to

administer clean diesel grants was first provided to DEQ in 2007. Projects that qualified for grants were limited to retrofitting diesel exhaust controls, non-road engine repowers and scrapping pre-1994 trucks. The federal program guidelines provide for many other eligible activities including idle reduction, aerodynamic enhancements and vehicle replacement.

Although the legislation included an emergency clause making it effective upon filing, DEQ must adopt implementing rules. Failure to adopt the rules would have prevented DEQ from offering the broader range of projects that are now more attractive to Oregon's potential applicants interested in reducing harmful emissions from diesel engines.

Regulated parties:

Participation in the grant program is voluntary. The rules affect owners of diesel powered vehicles and equipment as sub-recipients of DEQ-secured grant funds. The successful implementation of projects supported by grants authorized by the rules affects Oregonians by reducing harmful emissions.

Rules Coordinator: Maggie Vandehey — (503) 229-6878

340-259-0010

Purpose and Scope

(1) The purpose of the clean diesel grant and loan rules is to make grants and loans available to the owners or operators of diesel engines for the retrofit of an Oregon diesel engine, for the repower of a non-road Oregon diesel engine, or for the scrapping of an Oregon truck engine.

(2) The rules in this division do not apply to DEQ grants or loans using moneys received from the federal government for initiatives to reduce emissions from diesel engines. DEQ may exercise its discretion to issue such grants and awards as it deems appropriate, consistent with and subject to federal law.

Stat. Auth.: OL 2007, Ch. 855 (2007 HB 2172), ORS 468.020, 468A.803

Stats. Implemented: OL 2007, Ch. 855 (2007 HB 2172), 468A.803

Hist.: DEQ 9-2008, f. & cert. ef. 7-11-08; DEQ 10-2013(Temp), f. 10-28-13, cert. ef. 10-29-13 thru 4-27-14; DEQ 3-2014, f. & cert. ef. 3-31-14

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Rule Caption: Incorporate Lane Regional Air Protection Agency Rules for open burning into State Implementation Plan

Adm. Order No.: DEQ 4-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 1-1-2014

Rules Amended: 340-200-0040

Subject: The Environmental Quality Commission amended rules to incorporate Lane Regional Air Protection Agency revised regulations for open burning into Oregon's State Implementation Plan in Oregon Administrative Rule 340-200-0040. The LRAPA Board of Directors adopted open burning rules revisions in an effort to meet federal air quality standards for fine particulate matter, to bring LRAPA in line with state rules and better coordinate with state and federal requirements. LRAPA revised its rules to:

- Clarify when and where small recreational fires such as patio fireplace could occur and identify acceptable fuels for these fires,
- Include Hazeldell and Siuslaw Rural Fire Protection Districts in the special open-burning control area at the districts' request,
- Allow daily end time on burn days to be set earlier than sunset,
- Restrict the open burning season in the outlying areas of Lane County, and
- Correct the meaning of the LRAPA acronym to Lane Regional Air Protection Agency.

Brief history

LRAPA, in consultation with DEQ and the U.S. Environmental Protection Agency, is responsible for ensuring that Lane County communities comply with federal air quality health standards, including enacting plans to restore healthy air quality in any area violating standards. LRAPA conducts air monitoring, permitting and compliance, inspection and enforcement, and regulates open burning and asbestos abatement throughout Lane County. It also has a woodstove advisory program, an open burning advisory program and conducts special projects focused on air quality. Funding sources for LRAPA

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include dues from Lane County and cities in Lane County and fees from industrial and other permitted sources. Additionally, LRAPA coordinates with DEQ to obtain EPA funding and state general funds.

On March 14, 2008, the LRAPA Board of Directors adopted amendments to the Title 47 open burning rules, and the rules have been in effect in Lane County since their adoption. The Environmental Quality Commission and DEQ have oversight authority to ensure LRAPA meets Clean Air Act requirements.

The State Implementation Plan is the State of Oregon Clean Air Act Implementation Plan that EQC adopts under OAR 340-200-0040 and EPA approves. EQC reviews LRAPA rules to determine if they comply with state law and the Clean Air Act. If they comply, EQC approves the LRAPA rules and revisions to OAR 340-200-0040 and directs DEQ to submit the approved rules to EPA for federal approval as State Implementation Plan amendments.

Typically, DEQ presents LRAPA rules to EQC for consideration immediately upon adoption by the LRAPA board. EPA's public notice requirements are above and beyond Oregon's requirements and several years ago, DEQ and LRAPA held a joint public notice that met Oregon requirements, but determined that process did not meet EPA's requirements for State Implementation Plan rules. Performing rulemaking is resource intensive and DEQ was unable to perform the additional public notice requirements until now.

Regulated parties

The rule amendments do not change the regulated parties or requirements for regulated parties from the rules that LRAPA's board adopted in 2008. The 2008 rules affect residential open burning in Lane County.

Rules Coordinator: Maggie Vandehey—(503) 229-6878

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval. The State Implementation Plan was last modified by the Commission on March 20, 2014.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 CFR 51.102 (July 1, 2002); and

(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

NOTE: Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, DEQ shall enforce the more stringent provision.

Stat. Auth.: ORS 468.020, 468.065, 468A.035 & 468A.070

Stats. Implemented: ORS 468A.035 & 468A.135

Hist.: DEQ 35, f. 2-3-72, f. 2-15-72; DEQ 54, f. 6-21-73, f. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 27-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-12-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94,

cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996(Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000 f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2008, f. & cert. ef. 3-20-08; DEQ 11-2008, f. & cert. ef. 8-29-08; DEQ 12-2008, f. & cert. ef. 9-17-08; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 3-2009, f. & cert. ef. 6-30-09; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 2-2010, f. & cert. ef. 3-5-10; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 14-2010, f. & cert. ef. 12-10-10; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 18-2011, f. & cert. ef. 12-21-11; DEQ 1-2012, f. & cert. ef. 5-17-12; DEQ 7-2012, f. & cert. ef. 12-10-12; DEQ 10-2012, f. & cert. ef. 12-11-12; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 11-2013, f. & cert. ef. 11-7-13; DEQ 12-2013, f. & cert. ef. 12-19-13; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 4-2014, f. & cert. ef. 3-31-14

Rule Caption: Incorporate Lane Regional Air Protection Agency Rules for permit streamlining into State Implementation Plan

Adm. Order No.: DEQ 5-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 1-1-2014

Rules Amended: 340-200-0040

Subject: The Environmental Quality Commission adopted rule amendments to incorporate Lane Regional Air Protection Agency revised regulations for permit streamlining into Oregon's State Implementation Plan in Oregon Administrative Rule 340-200-0040. The LRAPA Board of Directors adopted permit streamlining rules revisions in an effort to maximize efficiencies in LRAPA's permitting program while maintaining the existing level of environmental protection, bring LRAPA in line with state rules, and better coordinate with state and federal requirements.

The LRAPA rules contain:

- State and federal National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards that were in effect at the time of LRAPA's rule adoption.

- Streamlined and improved permitting processes comparable to DEQ rules adopted in 2001 and 2007.

- Narrowing of an agriculture exemption comparable to DEQ rules adopted in 2008.

- Minor corrections and adjustments adopted by LRAPA's Board in January 2010 to the regulations previously adopted by LRAPA's Board in October 2008.

Brief history

LRAPA, in consultation with DEQ and the U.S. Environmental Protection Agency, is responsible for ensuring that Lane County communities comply with federal air quality health standards, including enacting plans to restore healthy air quality in any area violating standards. LRAPA conducts air monitoring, permitting and compliance, inspection and enforcement, and regulates open burning and asbestos abatement throughout Lane County. It also has a woodstove advisory program, an open burning advisory program and conducts special projects focused on air quality. Funding sources for LRAPA include dues from Lane County and cities in Lane County and fees from industrial and other permitted sources. Additionally, LRAPA coordinates with DEQ to obtain EPA funding and state general funds.

On October 14, 2008 and January 12, 2010, the LRAPA Board of Directors adopted amendments to the permit rules, and the rules have been in effect in Lane County since their adoption. The Environ-