

Oregon Department of Environmental Quality

**December 13, 2013**

Notice of Proposed Rulemaking

 **Incorporate Lane Regional Air Protection Agency Rules**

**for Permit Streamlining into**

**State Implementation Plan**

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|  **Overview** |

Short summary

DEQ proposes to incorporate Lane Regional Air Protection Agency regulations for permit streamlining into Oregon’s State Implementation Plan in Oregon Administrative Rule 340-200-0040. The permit streamlining rules were adopted by the LRAPA Board of Directors 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:

* Are identical to the changes in Chapter 340 Oregon Administrative Rules that EQC adopted in 2001, 2007 and 2008.
	+ In 2001 and 2007, EQC adopted DEQ rulemakings titled SPPIT 1 and SPPIT 2, respectively. These rulemakings streamlined and improved permitting processes.
	+ In 2008, EQC adopted DEQ rules to clarify an agriculture exemption from the rules.
* Are identical to state and federal National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards.
* Include minor corrections and adjustments adopted by LRAPA’s Board in January 2010 to the regulations previously adopted by LRAPA 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 and conducts special projects focused on air quality. The agency is funded from local dues from Lane County and the cities of Lane County, industrial and other permitting fees, and LRAPA coordinates with DEQ to obtain EPA funding and state general funds.

The permit streamlining rules provided at the end of this document were adopted by the LRAPA Board of Directors on October 14, 2008 and January 12, 2010 and 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 as adopted by EQC under OAR 340-200-0040 and approved by EPA. The EQC’s role is to review LRAPA rules to determine if they are in compliance with state law and the Clean Air Act, approve those rules if they comply, and submit approved rules to EPA for federal approval as State Implementation Plan amendments. Though this is not the case here, an exception to this requirement allows the DEQ to approve any LRAPA rules that are verbatim restatements of rules that the EQC has already approved.

Typically, DEQ submits LRAPA rules to the EQC for incorporation into the State Implementation Plan upon adoption by the LRAPA Board. However, in this case, DEQ determined that the public notice process held jointly by DEQ and LRAPA several years ago did not meet requirements for State Implementation Plan rules, which are above and beyond requirements for normal rulemaking. Performing rulemaking is resource intensive and DEQ was unable to perform the additional public notice requirements until now.

Regulated parties

The regulated parties are permitted sources identified in LRAPA’s Title 37 rules for Air Contaminant Discharge Permits as well as sources subject to Title V Operating Permit requirements.

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|  **Stringency Review and Authorization** |

*Insert PDF of signed letter*

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|  **Statement of need** |

LRAPA adopted the changes to its permitting rules described in the table below to maximize efficiencies in LRAPA’s permitting program, bring LRAPA in line with state rules and better coordinate with state and federal requirements.

In order for LRAPA and the state to maintain compliance with the Clean Air Act, the EQC must review LRAPA’s rules and, if the EQC concludes that the rules comply with state law and the Clean Air Act, approve the rules and submit them to the EPA for approval and incorporation, as appropriate, into the federally-approved State Implementation Plan. If EQC adopts the rules, DEQ would submit the rules to EPA to update the federally-approved State Implementation Plan including a request for federal delegation of certain rule aspects, where appropriate. In addition to the information provided in the table below, DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and changes to the State Implementation Plan.

| **Proposed Rule or Topic** | **Discussion** |
| --- | --- |
| 1. General Air Contaminant Discharge Permits
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| What problem is DEQ trying to solve? | LRAPA’s rules currently in the State Implementation Plan limit LRAPA’s ability to write permits for categories of businesses. Instead, LRAPA issues individual, source-specific permits. This is a resource intensive process and not a valuable use of resources for permitting certain categories of businesses. |
| How would the proposed rule solve the problem?  | The proposed rules expand LRAPA’s ability to write permits for categories of businesses. These permits are known as General Air Contaminant Discharge Permits and allow the permitted business to operate as if it had a source-specific permit. A business is assigned to the General permit if it meets the criteria for the General permit, whereas, a business that is required to have a permit, but does not fit the criteria of a General permit will still need to obtain an individual, source-specific Air Contaminant Discharge Permit.  |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if implementation of the proposed rules increases efficiency in LRAPA’s permitting program. |
| 1. Combining and Splitting Sources
 |
| What problem is DEQ trying to solve? | A formal process is needed to ensure that permitted sources are being treated consistently statewide when they combine or split their operations. LRAPA’s rules currently in the State Implementation Plan lack a formal process. |
| How would the proposed rule solve the problem?  | s The proposed rules define “source” as: 1) Being under common ownership or control, 2) Having a common two digit standard industrial classification or supporting the major two digit classifications, and 3) Being on contiguous or adjacent properties. The proposed rules define “adjacent” as interdependent and nearby, consistent with EPA guidance. Two sources that become one source could combine their netting basis, but would get only one significant emission rate. One source that splits could divide its netting basis and significant emission rate however it wants, but the new sources would not get multiple significant emission rates, unless one or more of them satisfies the New Source Review requirements. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if permitted sources are treated consistently statewide when they combine or split their operations. |
| 1. Generic Bubble Authority
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| What problem is DEQ trying to solve? | LRAPA’s rules currently in the State Implementation Plan allow all pollutants to be addressed by alternative emission controls. This can be done by way of all permit types. The requirement for actual emission reduction is not specified. [I don’t know what this means – Andrea] |
| How would the proposed rule solve the problem?  | The proposed rules specify procedures for VOC and NOx only. Other pollutants require a revision to the State Implementation Plan. Specify only done through most complex (high fee) ACDP or Title V. The proposed rules require an actual emission rate reduction, not just a reduction in production, throughput or hours of operation. |
| How will DEQ know the problem has been solved? |  |
| 1. Notice of Intent to Construct and Construction Approval
 |
| What problem is DEQ trying to solve? | LRAPA’s rules currently in the State Implementation Plan contain vaguely worded requirements related to construction. Construction levels contain inappropriate emission level triggers; construction ACDPs are not required or specified; the requirements apply to ACDP sources but not Title V sources; there are no de minimis levels; netting basis is not mentioned at all; and Significant Emission Rates are only at Levels III and IV. |
| How would the proposed rule solve the problem?  | The proposed rules specify and quantify construction types more clearly; the rules contain issuance and approval procedures for Construction ACDP; the rules require both ACDP and Title V sources to follow the same rules; and the rules contain de minimis, netting basis and Significant Emission Rates to create a more clear set of requirements. |
| How will DEQ know the problem has been solved? |  |
| 1. Generic Plant Site Emission Limit
 |
| What problem is DEQ trying to solve? | In LRAPA’s rules currently in the State Implementation Plan, site-specific Plant Site Emission Limits are set at the existing facility maximum even though Agency must allow any increases up to SER. |
| How would the proposed rule solve the problem?  | Generic Plant Site Emission Limit set at one ton below SER. Eliminates need for Agency to revise permits for increases below SER. Essential element of General ACDP. |
| How will DEQ know the problem has been solved? |  |
| 1. Make Plant Site Emission Limit into a Potential to Emit limit
 |
| What problem is DEQ trying to solve? | LRAPA’s rules currently in the State Implementation Plan base Plant Site Emission Limits on a calendar year. This creates opportunity for a source to exceed the limit, due to the source’s fluctuations in production. |
| How would the proposed rule solve the problem?  | The proposed rules base Plant Site Emission Limits on a rolling 12-month period. This limits emissions and requires tracking for each 12-month rolling period, instead of each calendar year. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if fewer sources exceed Plant Site Emission Limits due to fluctuations in production. Is this an accurate guess? Andrea |
| 1. Eliminate Short Term Plant Site Emission Limit
 |
| What problem is DEQ trying to solve? | LRAPA’s rules currently in the State Implementation Plan set Plant Site Emission Limits on an annual as well as hourly, daily, weekly basis even though there is no short-term SER |
| How would the proposed rule solve the problem?  | The proposed rules eliminate short term Plant Site Emission Limits where there is no basis to deny an increase (in emissions or in the emission limit? - Andrea.  |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Unassigned Emissions
 |
| What problem is DEQ trying to solve? | LRAPA’s rules currently in the State Implementation Plan do not define unassigned emissions or netting basis; however, large amounts of unassigned emissions remain available for use by permit holders. |
| How would the proposed rule solve the problem?  | The proposed rules define terms and create a consistent way of establishing and managing unassigned emissions and netting basis. The proposed rules also reduce unassigned emissions by 2013 (freeze baseline). |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. New Source Review Streamlining
 |
| What problem is DEQ trying to solve? | Emission increases at smaller sources (below federal major thresholds) handled under NSR. Analytical requirements outdated and included in NSR rules. |
| How would the proposed rule solve the problem?  | The proposed rules …transfers emission increases at smaller sources to PSEL rules but still require ambient analysis to ensure no adverse impact to ambient thresholds.Create new title for analytical requirements as well as update and expand requirements for ambient impact analyses |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Netting Basis
 |
| What problem is DEQ trying to solve? | LRAPA’s rules currently in the State Implementation Plan do not define netting basis.  |
| How would the proposed rule solve the problem?  | The proposed rules define terms to clarify permitting requirements for emission increases. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Emission Reduction Credits
 |
| What problem is DEQ trying to solve? | Included in NSR rules. |
| How would the proposed rule solve the problem?  | The proposed rules create new Title and clarify and expand requirements. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Requirements for Offsets
 |
| What problem is DEQ trying to solve? | Included in NSR rules. Outdated and very general. |
| How would the proposed rule solve the problem?  | The proposed rules include new Air Quality Analysis requirements and create and expand more detailed requirements.  |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Alternatives to preconstruction monitoring [proposed as Section 40-0050-4.A.4)]
 |
| What problem is DEQ trying to solve? | Currently sources can be exempted from preconstruction monitoring if they model below “significant monitoring concentrations”. Can be done by analyzing project-only OR competing/background-only source. No additional exemptions. |
| How would the proposed rule solve the problem?  | The proposed rules… Sources can substitute post construction monitoring for pre-construction monitoring if source can demonstrate increase would not cause or contribute to exceedance of any air quality standard. Must demonstrate proposed increases AND General Background Concentrations are less than the NAAQS for all averaging times.  |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Ambient impacts from ozone precursors
 |
| What problem is DEQ trying to solve? | Briefly covered in Offsets portion of NSR rules (Section 38-035-2.) |
| How would the proposed rule solve the problem?  | The proposed rules move and create more detailed requirements in new Title- Air Quality Analysis Requirements (Title 40); create equation to evaluate VOC and NOx impacts on sensitive ozone areas; and are necessary to satisfy EPA requirements for ozone precursors. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Public Participation
 |
| What problem is DEQ trying to solve? | 30-day public notice for all new sources, all sources with permit renewals and all increases above PSEL. Increase ability to streamline public notice requirements by allowing more focus on larger source and reducing public notice efforts for smaller sources. Clarify and expand overall requirements for public participation. |
| How would the proposed rule solve the problem?  | The proposed rules … Very similar but would create four different public notice procedures depending on permit action. Rules would categorize permit actions according to potential environmental and health significance and the degree to which LRAPA has discretion for implementing the applicable regulations. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Definitions
 |
| What problem is DEQ trying to solve? | Some terms undefined or included only in specific titles. Some terms apply only to a specific title and are included in the general definitions. Some terms undefined. Some terms need correction (e.g., “Regulated Pollutant” unintentionally includes CAA Section 112(r) pollutants). |
| How would the proposed rule solve the problem?  | The proposed rules move certain definitions from specific titles to clarify that they apply to all rules; remove certain definitions from general title but retain in specific title; and add new terms and redefine certain definitions where needed including “Regulated Pollutant”. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Delist Compounds as VOCs
 |
| What problem is DEQ trying to solve? | VOC definition includes certain compounds that are exempt from definition of VOC is outdated. |
| How would the proposed rule solve the problem?  | The proposed rules add several compounds EPA has determined to have negligible reactivity and very low potential to form ground-level ozone. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Excess Emissions Revisions
 |
| What problem is DEQ trying to solve? | Emergency “may” be allowed to be an affirmative defense to enforcement for upsets and breakdowns; same if source follows pre-approved Startup and Shutdown plan. |
| How would the proposed rule solve the problem?  | The proposed rules clarify that the affirmative defense of emergencies and the following of a Startup and Shutdown plan do not take away LRAPA enforcement discretion. Consolidates notification and reporting requirements and criteria for demonstrating emergency defense. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. SO2 Averaging (LRAPA 32-070)
 |
| What problem is DEQ trying to solve? | SO2 Emission Limitations for liquid and solid fuels include standards specified as 2-hour averages and should be 3-hour averages to match up with typical source test requirements that require three (3) one-hour runs. |
| How would the proposed rule solve the problem?  | The proposed rules change the standard to a 3-hour average. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Revisions to Incinerator Rules (Title 30)
 |
| What problem is DEQ trying to solve? | Standards include the terms “new” and “existing” that can be interpreted as vague and confusing. |
| How would the proposed rule solve the problem?  | The proposed rules clarify standards by including specific dates of applicability in the requirements and eliminating terms “new” and “existing”. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Revisions to Kraft Pulp Mill Rules
 |
| What problem is DEQ trying to solve? | 1. “Other sources of TRS” defined in TRS standard and in definitions section. Does not include “Categorically Insignificant Activities”.
2. Higher TRS limit for Smelt dissolving tanks if explosion hazard exists.
3. General monitoring requirements included.
4. Upset requirements included.
5. No mention of NSPS Supbart BB.
 |
| How would the proposed rule solve the problem?  | 1. Remove definition from standard and include it in the definition section. Include “Categorically Insignificant Activities.”
2. Removes
3. Removes but retained in Stationary Testing and Monitoring (proposed new Title 35)
4. Removed but retained in Title 36 excess emsissions.
5. Specifies that NSPS BB may apply and that more restrictive requirements apply.
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| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Simplified Emission Standards for Plywood, Particleboard, and Hardboard Manufacturing Operations.
 |
| What problem is DEQ trying to solve? | General provisions specify standards are based upon square foot of product, but in subsequent sections specify hourly emission limits based upon maximum production rates. |
| How would the proposed rule solve the problem?  | The proposed rules clarify requirements by specifying basis for each standard in each separate section. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Changes to Emission Standards for Specific Industries.
 |
| What problem is DEQ trying to solve? | Charcoal plant rules contain typos. NSPS and NESHAP adoption by reference not updated since 1994 and 2001, respectively. |
| How would the proposed rule solve the problem?  | The proposed rules correct typos and adopt the most current NSPS and NESHAPs by reference (current as of the date the LRAPA Board adopted the rules). |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |
| 1. Authorizing the LRAPA to implement the Clean Air Act requirements for agriculture.
 |
| What problem is DEQ trying to solve? | The federal Clean Air Act (CAA) does not provide an exemption for agricultural operations while prior to 2007 Oregon’s state law allowed for such exemptions.  |
| How would the proposed rule solve the problem?  | This rulemaking is needed to align LRAPA and DEQ rules (OAR) to ORS 468A.020 to allow regulation of agriculture to the extent necessary to comply with the federal CAA. |
| How will DEQ know the problem has been solved? | DEQ will know the problem has been solved if |

Request for other options

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

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|  Rules affected, authorities, supporting documents |

Lead divisionProgram or activity

Air Quality Division Air Contaminant Discharge Permits and Title V Operating Permits

Chapter 340 action

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| Amend | 340-200-0040 |

Statutory authority

ORS 468.020, 468A.020, 468.065, 468A.135, 468A.025

Other authority

 LRAPA Title 13 General Duties and Powers of Board and Director

LRAPA Title 14 Rules of Practice and Procedure

Statute implemented Legislation

ORS 468A.020, 468A.025 SB235, 2007

Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)

In proposing changes to align its rules with state and federal requirements, LRAPA relied primarily upon the rules implemented by ODEQ as part of the two phases of streamlining (SPPIT I and II), and changes to allow DEQ to implement CAA requirements for agriculture.

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| **Document title** | **Document location** |
| LRAPA Title XX XX rules adopted XX | Provided at the end of this document and at <http://www.lrapa.org/downloads/publications/ISR_Redlined_Rules.pdf> |
| LRAPA Board of Directors Meeting, October 14, 2008, Item 6: Adoption of Proposed Industrial Permitting Rules (Including Attachments ‘A’ – ‘J’) | DEQ Headquarters811 SW 6th AvenuePortland, OR 97204 |
| Oregon Administrative Rules Chapter 340 Divisions 200, 202, 204, 208, 209, 210, 212, 214, 216, 222, 224, 225, 226, 230, 234, 236, 238, 244, and 268. |  |
| LRAPA Rules and Regulations  | <http://www.lrapa.org/rules_and_regulations/index.php> |
| LRAPA Board of Directors Meeting, January 12, 2010, Item 7: Adoption of Proposed Industrial Permitting Rules (Including Attachments ‘A’ and ‘B’) | DEQ Headquarters811 SW 6th AvenuePortland, OR 97204 |
| LRAPA Citizens Advisory Committee Meeting, XX | DEQ Headquarters811 SW 6th AvenuePortland, OR 97204 |
| Letter from DEQ to LRAPA, XXdate, Stringency review of Title XX amendments | DEQ Headquarters811 SW 6th AvenuePortland, OR 97204 |
| Agenda Item G, Revisions to Point Source Air Management Rules (New Source Review, Plant Site Emission Limit, and Air Quality Permitting Requirements), EQC Meeting May 4, 2001 | [Insert link to SPPIT1] |
| Agenda Item X, Adoption of Air Quality Permit Program Streamlining and Updates; October 18, 2007 Environmental Quality Commission Meeting | [Insert link to SPPIT2] |
| Agenda Item X, Adoption Authorizing the DEQ to implement the Clean Air Act requirements for agriculture; August 21, 2008 Environmental Quality Commission Meeting | [Insert link to AG] |

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|  Fee Analysis  |

Summary: Since the expected fee reductions are nearly equivalent to (or greater than) the FTE (full time equivalent) reductions, the proposed rule changes can be implemented with reasonable comfort that there will not be significant changes in revenue as related to workload.

Analysis:

1. Actual historical long-term average ACDP fees: For the past 6 years the annual average actual ACDP fees collected by the Agency are $402,191 per year.
2. Title V fees collected for emissions generated during the 2007 calendar year are assumed to be the same as the 2006 calendar year and increased by 8% to account for the second year of the 3-year phase-in of the 24% increase approved by rule. 2007 Title V fees collected are therefore estimated to be approximately $480,833. Nearly all Title V facilities pay on permitted emissions rather than actual emissions emitted during the calendar year and therefore can be assumed to be relatively constant.
3. The projected fees, post-rule streamlining, are estimated to be approximately $370,320 per year (excluding CPI increases).
4. FTE savings expected under the streamlining are 8% based upon ODEQ’s analysis.
5. LRAPA budget assigns 10.42 FTE to the ACDP and Title V program.
6. FTE savings are therefore estimated to be 10.42 FTE x 8% = 0.83 (or 0.5 to 1.0 FTE).
7. The average cost associated with the ACDP and Title V programs is budgeted to be $87,220 per FTE with an additional 12% overhead cost to bring the total cost to $97,690 per FTE. Therefore the 0.5 FTE savings would be approximately $49,000.
8. The pre and post –streamlining can then be compared as follows:

ACDP and Title V Fees Pre-Streamlining = $402,191 + $480,833 = $883,024 per year

ACDP and Title V Fees Post-Streamlining = $370,320 + $480,833 = $851,153 per year

Pre-Streamlining minus Post-Streamlining = $883,024 – 851,153 = $31,871 per year

1. Since the FTE savings expected under the streamlining rules ($49,000 per year) is greater than the fee reductions expected under the streamlining rules ($31,871 per year or greater), the fee changes and workload changes can be classified as “neutral” or “beneficial”.

Additional Fee Analysis

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| Permit Type | Fee Type | Existing Fee | Proposed Fee |
| Standard ACDP | Filing feeInitial permittingApplication processingAnnual compliance | 129 /5 yrs.3400 to $17,000525 to $52,000 /5yrs800 to $27,000 | NA$12,000 to $42,000NA$7680 |
| Simple ACDP | Initial permittingAnnual compliance | NA | $6,000$1,920 to 3,840 |
| General ACDP | Filing feeInitial permittingApplication processingAnnual compliance | NA | NA$1200NA$720 to $1872 |
| Basic ACDP | Initial permittingAnnual compliance | NA | $120$360 |
| Short Term Activity | Initial permitting | NA | $3,000 |
| Construction ACDP | Initial permitting | Same as Standard | $9,600 |
| Minimal ACDP |  | Same as Standard but annual compliance is paid every 5 years and application processing paid every 10 years | NA |

The following fee examples were used in developing the fee structure as it is proposed in this rule package. They illustrate the potential economic impact for two source categories. More analysis on the overall permit fee and workload expected under the proposed rule changes can be found in Attachment B – Fee and Workload Analysis

**Example 1: Stationary Asphaltic Concrete Paving Plant:**

This type of facility would be Category 34a under the existing fee table. In a ten-year period a typical facility would pay:

10- annual compliance determination fees @ $2,870 each

2 - renewal fees @ $1,318 each

1 - modification fee @ $1,318 each

**Total: $32,654**

This type of facility would be assigned to a General ACDP-High Cost (Fee Class Three) under the New Table One and would pay:

1-Assignment to General ACDP @ $1,200

10- annual fees @$1,872

**Total: $19,920**

**Example 2: Portable Rock Crusher:**

This type of facility would be Category 42b under the existing fee table. In a ten-year period a typical facility would pay:

10- annual compliance determination fees @ $1,525 each

2 - renewal fees @ $1,803 each

1 - modification fee @ $1,803 each

**Total: $20,659**

This type of facility would be assigned to a General ACDP-Medium Cost (Fee Class Two) under the New Table One and would pay:

1-assignement to General ACDP fee @ $1,200

10- annual fees @$1,296

**Total: $14,160**

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|  Statement of fiscal and economic impact [ORS 183.335 (2)(b)(E)](http://www.leg.state.or.us/ors/183.html) |

Fiscal and Economic Impact

The proposed rules will result in simplification and streamlining, updating and alignment with state and federal requirements, while maintaining equivalent environmental protection and stringency. Rule simplification and streamlining will likely result in efficiencies and avoidance of additional permitting costs for small sources.

EPA determined that there would be no significant impact on small businesses when it exempted HFE-7300 from the definition of Volatile Organic Compounds. In 20XX, LRAPA’s original analysis determined that LRAPA’s adoption of this exemption would like benefit businesses by reducing regulatory burden and allowing expanded use of a commercially valuable compound.

In 2013, DEQ in consultation with LRAPA reevaluated the proposed rules and DEQ determined LRAPA’s original analysis is reasonable and still correct in light of events that have occurred since 20XX.

Statement of Cost of Compliance

 Impacts on general public

LRAPA’s public notice procedures are being changed by these proposed rule revisions so major new sources and major modifications to existing sources may require a preliminary informational meeting before the permit is drafted. This will increase the up-front time required for the public, to prepare for and participate in a public meeting. An expected benefit from this procedure is better permits that require less time for review and comment since issues were raised and addressed before permit drafting. However, since the proposed public notice procedures increase public involvement for sources that are potentially environmentally significant, public involvement for permitting smaller facilities and changes to existing facilities that are not environmentally significant will be reduced.

An example of decreased workload is the proposal to increase General Permits, which require one public notice for a General Permit source category of approximately ten or more sources. Comments from the public on one General Permit would then have the affect of commenting on all of the individual permits that would be issued if a General Permit was not issued to sources in that category. Overall, this tiered public involvement process should result in time savings for the public, as well as, business and LRAPA.

Impact on other government entities other than DEQ

1. Local governments: Local governments that hold air quality permits may be affected by the rule revisions in the same manner as small or large businesses. Under the proposed public participation procedures, proposed major source permits will be subject to a public involvement period before LRAPA begins processing the permit. LRAPA expects the public may raise land use issues at this point. Such issues will be referred to the local planning jurisdiction for resolution, which may increase the burden on the local government entity.

Another fiscal impact this proposed rulemaking may have on local government is requiring submittal of excess emission reports within fifteen days of their occurrence rather than semi-annually. This requirement could impose a slight additional cost to county or local government facilities with air permits if they experience excess emissions. However, LRAPA expects this impact to be negligible because excess emissions reported within the required 15 days would no longer need to be included on semi-annual reports. Potentially affected facilities could include county –owned cogeneration facilities and school boilers.

1. State agencies: A fiscal impact this proposed rulemaking may have on state agencies is requiring submittal of excess emission reports within fifteen days of their occurrence rather than semi-annually. This requirement could impose a slight additional cost to state-owned facilities with air permits if they experience excess emissions. However, LRAPA expects this impact to be negligible because excess emissions reported within the required 15 days would no longer need to be included on semi-annual reports. Potentially affected facilities could include university power generators.

Part of the rule changes allow for portable sources to obtain one permit to operate in all areas of the state including Lane County. The agency (LRAPA or the Department) responsible for writing the permit and collecting the fees for these sources will be the agency where the portable source’s headquarters are located. This will likely reduce the fees collected by both LRAPA and the Department

Impact on DEQ [ORS 183.335](http://www.leg.state.or.us/ors/183.html)

See “Impacts on general public” above.

Impact on large businesses (all businesses that are not small businesses below)

LRAPA anticipates that elimination of redundant requirements and clarification of rule language may have beneficial fiscal effects on large businesses. The proposed revisions would result in fewer permit conditions for kraft pulp mills in cases where multiple permit conditions set similar limits for the same emission sources and pollutants.

A fiscal impact this proposed rulemaking may have on large businesses is requiring submittal of excess emission reports within fifteen days of their occurrence rather than semi-annually. This requirement could impose a slight additional cost to large facilities with air permits if they experience excess emissions. However, LRAPA expects the fiscal impact to be negligible because excess emissions reported within the required 15 days would no longer need to be included on semi-annual reports.

Many large businesses will require Standard ACDPs. However, since the type of permit required is based on the amount of emissions and not the number of employees, some large businesses may be subject to General and Simple ACDPs as outlined for small business.

**Fees:** Most large businesses will continue to be subject to either the Title V permit program (Title V fees are not affected by the proposed changes) or Standard ACDPs. Standard ACDP holders will be charged $7,680/year instead of the range of fees in the existing rules (approximately $1000 to $21,000/year). Other ACDP fees include Initial Permitting and Special Activity fees. Special Activity fees are currently charged for such things as permit modification and review of modeling analysis. These proposed Special Activity fees are similar in magnitude and nature as the existing rules. Overall LRAPA anticipates these proposed fee changes will be revenue neutral, although individual businesses may pay more or less then current fees.

**Reduced Time:** The proposed changes will reduce the amount of time required and the cost to maintain a permit by reducing the time it takes to issue and renew permits and the need for permit modifications. This is primarily due to the use of generic Plant Site Emission Limits (PSELs) in place of source-specific ones, and the use of general permits for many source categories. Changing the trigger level for Prevention of Significant Deterioration (PSD) from the Significant Emission Rate (SER) to 100 or 250 tons per year will reduce the time consumed by triggering PSD when modeling indicates that no standards will be violated. An air quality analysis for increases in the PSEL above the SER will still require an air quality analysis even if PSD is not triggered. Reduced permit processing time will enable businesses to better meet market-timing needs.

**Triggering Applicable Requirements:** The proposed changes could cause some sources to trigger or avoid triggering various applicable requirements. For example changes to unassigned emissions could cause a few sources to trigger New Source Review sooner, as compared to the current rules. Also, the proposed process to assess impacts due to ozone precursors potentially could require sources between 30 and 100 kilometers from a nonattainment or maintenance area to evaluate their impact on the area and mitigate the impact if it is significant (there are currently no ozone nonattainment or maintenance areas in Lane County). Procedures for combining and splitting sources could cause some sources to trigger or avoid triggering Title V or New Source Review rules.

**Monitoring and Reporting Costs:** The proposed changes could increase or decrease monitoring and reporting costs. For example the rolling 12 month PSEL limit in the permits will make it necessary to report compliance for 12 numbers in annual reports in place of one number for the calendar year. However, elimination of the short term PSEL (hourly or daily) will reduce the burden of monitoring and reporting compliance with these short term limits.

**Emission Reduction Credits:** The proposed changes could increase the value of certain emission reduction credits. For example emission reductions from shutdowns are proposed to be used just like over control reductions to offset emission increases for sources going through New Source Review. Banking can be used to extend the life of a shutdown credit just the same as other actual emission reductions. Under the current rules, emission reductions due to shutdowns may only be used as offsets during the two years following the reduction and may not be banked.

Impact on small businesses (those with 50 or fewer employees) [ORS 183.336](http://www.leg.state.or.us/ors/183.html)

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| a) Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.  | LRAPA estimates that 50 to 70 small businesses could be affected by air quality programs. |
| 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 changes do not add new reporting requirements for small businesses. Although LRAPA cannot currently document the fiscal and economic benefits of these rule revisions, they will reduce the complexity of current regulations, resulting in a more efficient permitting and compliance process for small businesses in Lane County. |
| c) Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule. | The proposed changes do not add new equipment or administrative requirements for small businesses. |
| d) Describe how DEQ involved small businesses in developing this proposed rule. | Small businesses were not extensively involved in this rulemaking, but LRAPA anticipates some fiscal benefits to small businesses. They will have an opportunity to comment through the public notice process.  |

Documents relied on for fiscal and economic impact

In proposing changes to align its rules with state and federal requirements, LRAPA relied primarily upon the rules implemented by ODEQ as part of the two phases of streamlining (SPPIT I and II) and EPA comments.

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| **Document title** | **Document location** |
| Agenda Item G, Revisions to Point Source Air Management Rules (New Source Review, Plant Site Emission Limit, and Air Quality Permitting Requirements), EQC Meeting May 4, 2001 | [Insert link to SPPIT1] |
| Agenda Item X, Adoption of Air Quality Permit Program Streamlining and Updates; October 18, 2007 Environmental Quality Commission Meeting | [Insert link to SPPIT2] |
| Agenda Item X, Adoption Authorizing the DEQ to implement the Clean Air Act requirements for agriculture; August 21, 2008 Environmental Quality Commission Meeting | [Insert link to AG] |
| LRAPA Board October 14, 2008 Agenda Item 6 - Adoption of Proposed Industrial Permitting Rules (Including Attachments ‘A’ – ‘J’) | [Insert link] |
| LRAPA Board January 12, 2010 Agenda Item 7 - Adoption of Proposed Industrial Permitting Rules (Including Attachments ‘A’ and ‘B’) | [Insert link] |
| OAR 340 divisions: 200, 202, 204, 208, 209, 210, 212, 214, 216, 222, 224, 225, 226, 230, 234, 236, 238, 244, and 268. | <http://www.deq.state.or.us/regulations/rules.htm> |
| LRAPA Rules and Regulations  | <http://www.lrapa.org/rules_and_regulations/index.php> |

Advisory committee

DEQ did not appoint an advisory committee. When LRAPA developed its rule amendments in 20XX, it consulted the Citizens Advisory Committee?? (like in open burning?) and considered the committee’s recommendations on fiscal and economic impacts of the rule. DEQ reviewed the committee’s findings, as well as the documents listed above, in light of events that have occurred since 20XX. DEQ has determined that convening a fiscal advisory committee would be an extraneous use of DEQ resources.

[LRAPA-CREATED OPTION 3]

The LRAPA Advisory Committee was used for this rulemaking because of the extensive revisions and updates. Since approximately 1994, there have been only minor updates to the LRAPA ACDP rules. The recommendations from the LRAPA Advisory Committee – Industrial Rules Subcommittee (Industrial Rules Subcommittee) to the LRAPA Board of Directors (Board) that the industrial permitting rules proposed by LRAPA staff be adopted with some minor changes (see fourth bullet below). The evaluation of the proposed rules by the Industrial Rules Subcommittee was requested by the Board of Directors at their October 2007 meeting.

The Industrial Rules Subcommittee would like to thank George Davis from the Oregon Department of Environmental Quality and the LRAPA staff for helping the Subcommittee with information and materials.

The committee reviewed several aspects of the proposed rule changes and documented its recommendation in the following documents approved minutes dated Feb. 20, 2008.

1. Rules Stringency Analysis –Evaluates the 24 different proposed rule sections against five separate criteria. [See ‘Attachment A- Rule Summary and Stringency Analysis’ in the LRAPA Board October 14, 2008 Agenda Item 6 - Adoption of Proposed Industrial Permitting Rules (Including Attachments ‘A’ – ‘J’) in the ‘Documents relied on for fiscal and economic impact’ above]
2. New Source Review Stringency Analysis –Supports and expands on Item 9 of the Rule Stringency Analysis. [ See ‘Attachment C- New Source Review Analysis’ in the LRAPA Board October 14, 2008 Agenda Item 6 - Adoption of Proposed Industrial Permitting Rules (Including Attachments ‘A’ – ‘J’) in the ‘Documents relied on for fiscal and economic impact’ above ]
3. Fee and Workload Analysis –Supports and provides further detail on the expected fee and workload changes expected under the proposed rule changes. [See ‘Attachment B- Fee and Workload Analysis’ in the LRAPA Board October 14, 2008 Agenda Item 6 - Adoption of Proposed Industrial Permitting Rules (Including Attachments ‘A’ – ‘J’) in the ‘Documents relied on for fiscal and economic impact’ above]

Housing cost

To comply with [ORS 183.534](http://www.leg.state.or.us/ors/183.html), DEQ determined the proposed rules would have no 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. The overall fee changes are neutral for all permit holders including those that manufacture construction materials for such parcels.

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|  **Federal relationship**  |

*"It is the policy of this state that agencies shall seek to retain and promote the unique identity of Oregon by considering local conditions when an agency adopts policies and rules. However, since there are many federal laws and regulations that apply to activities that are also regulated by the state, it is also the policy of this state that agencies attempt to adopt rules that correspond with equivalent federal laws and rules..."*

Relationship to federal requirements

[**OPTION 3**– LRAPA-created option]

DEQ determined this rule proposal is “in addition to federal requirements” as required under [ORS 468A.327(1)(a)](http://www.oregonlaws.org/ors/468A.327) and [OAR 340-011-0029(1)(a)](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_011.html).

Industrial Streamlining Rules’ adopted by LRAPA October 2008:

The proposed rules incorporate science applicable to Oregon, incorporate technological advances, protect public health, protect environment, address administrative issues, and economic concerns. These proposed changes will bring LRAPA’s rules in line with state rules. This rulemaking also proposes to adopt changes LRAPA air quality regulations to better coordinate with and meet state and federal requirements. These changes we are now proposing are the same changes the DEQ made in 2001 for SPPIT 1 and in 2007 for SPPIT 2. These state and federal requirements include the National Emission Standards for Hazardous Air Pollutants (NESHAPs), New Source Performance Standards (NSPS). LRAPA initiated many of the proposed rule changes to streamline the permitting program and simplify compliance requirements.

The proposed rule changes incorporate no new federal requirements. The majority of the proposed rules would streamline and update rules by better coordinating with state rules and procedures with long-standing federal requirements that have been successfully adopted and implemented in Oregon’s air quality permitting programs. These federal requirements are not specific to issues of concern in Oregon.

In adopting the VOC exemption for HFE 7300, there is no indication that EPA or DEQ specifically considered data or information unique to Oregon or Lane County.

The primary goal of the proposed rulemaking is to streamline permitting and compliance by clarifying, simplifying and updating regulatory requirements. Clarifications will occur through consolidating and standardizing definitions, adopting general permits, adopting generic PSELs, improving the Major New Source Review requirements, aligning sulfur dioxide standards with federal requirements, updating the incinerator rules, simplifying emission standards for board product manufacturing, simplifying the Kraft Pulp Mill rules and consolidating the excess emissions requirements for notification, reporting and the emergency defense.

The proposed rulemaking could benefit facilities located in Lane County as a result of the removal of redundant permit conditions. The proposal to exempt HFE-7300 from the definition of Volatile Organic Compounds may also reduce regulatory burden by lifting the requirement to track and limit use of this chemical. Businesses could benefit from the opportunity to substitute HFE-7300 for substances that deplete the earth’s protective ozone layer and substances with high global warming potentials.

Revisions to make Excess Emissions rules consistent with state and federal requirements can bring greater certainty to facilities and LRAPA by eliminating discrepancies between the LRAPA, state and federal program. Better alignment will result in fewer compliance issues during federal oversight of LRAPA’s permitting and inspection program.

Industrial Streamlining Corrections Adopted January 2010 by LRAPA:

The proposed rulemaking is not different or in addition to applicable federal requirements. These are corrections to the Industrial Streamlining Rule Changes that the LRAPA Board of Directors voted to adopt at their October 14, 2008 meeting. 11 of the 18 changes are to make typographical corrections in rule citations and references to other rules citations. Two (2) changes involve adding the definitions of “Unassigned Emissions” and “Title I modification” to Title 12 that were intended to be included in the original streamlining. One (1) correction aligns the opacity limitation language for crematory units in the general permit with the rules. The rest of the changes allow LRAPA to keep small sources on the lowest cost permits by removing de minimis production/throughput thresholds for several source categories and allowing more expanded criteria for sources to obtain a Simple permit under the low fee category.

What alternatives did DEQ consider if any?

DEQ did not consider any alternatives to the propose rules. In order to be efficient and take advantage of the tremendous work done at the state level to create sensible rules for the unique and well-established stationary source permitting program in Oregon, DEQ and LRAPA chose to be consistent with the revisions specified by DEQ for their ‘SPPIT I’ and ‘SPPIT II’.

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|  Land use  |

*“It is the Commission's policy to coordinate the Department's programs, rules and actions that affect land use with local acknowledged plans to the fullest degree possible.”*

 [ORS 197.180](http://www.leg.state.or.us/ors/197.html), [OAR 660-030](http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_660/660_tofc.html)

Land-use considerations

To determine whether the proposed rules involve programs or actions that are considered a *land-use action*, DEQ considered:

* Statewide planning goals for specific references. Section III, subsection 2 of the DEQ State Agency Coordination Program[🞂](http://deq05/intranet/working/guidance/stateAgencyCoordinationProgram10-MSD-009.pdf) document identifies the following statewide goal relating to DEQ's authority:

 **Goal Title**

 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](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_018.html) for EQC rules on land-use coordination. Division 18 requires DEQ to determine whether proposed rules will significantly affect land use. If yes, how will DEQ:
	+ 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](http://www.deq.state.or.us/pubs/permithandbook/lucs.htm).
* DEQ’s mandate to protect public health and safety and the environment.
* Whether DEQ is the primary authority that is responsible for land-use programs or actions in the proposed rules.
* Present or future land uses identified in acknowledged comprehensive plans.

Determination

DEQ determined that the following proposed rules listed under the Chapter 340 Action section above are existing rules that affect programs or activities that the DEQ State Agency Coordination Program considers a land-use program.

OAR 340-200-0400 State of Oregon Clean Air Act Implementation Plan

OAR 340-018-0030 State Agency Coordination Program

DEQ’s statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules. 1: 340-018-0040(1) - compliance with statewide planning goals achieved by ensuring compatibility with acknowledged comprehensive plans. 2: 340-018-0050(2)(a) - ensuring compatibility with acknowledged comprehensive plans may be accomplished through a Land Use Compatibility Statement.

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|   Stakeholder and public involvement |

 Advisory committee

DEQ did not convene an advisory committee. This is an LRAPA rulemaking.

LRAPA convened the LRAPA Advisory Committee – Industrial Rules Subcommittee (Industrial Rules Subcommittee) on Dec. 17, 2007. The LRAPA Advisory Committee is a 12-member committee and was used for this rulemaking because of the extensive revisions and updates. Since approximately 1994, there have been very few changes to the LRAPA ACDP rules. The recommendations from the LRAPA Advisory Committee – Industrial Rules Subcommittee (Industrial Rules Subcommittee) to the LRAPA Board of Directors (Board) that the industrial permitting rules proposed by LRAPA staff be adopted with some minor changes. The evaluation of the proposed rules by the Industrial Rules Subcommittee was requested by the LRAPA Board of Directors at their October 2007 meeting.

The 5-member subcommittee included representatives from large industry and the general public. The committee met 6 times over 5 months. In additional to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee also evaluated the overall rule stringency and the New Source Review (NSR) stringency.

Roster

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| Name | Representing |
| Russ Ayers, Chair (subcommittee) | Large Industry |
| Amy Peccia, Member (subcommittee) | Large Industry |
| Hugh Larkin, Member (subcommittee) | General Public |
| Maurie Denner, Member (subcommittee) | General Public |
| Earl Koenig, Member (subcommittee) | General Public |
| Rick Rogers, Member  | Fire Suppression |
| Brian Forge, Member | General Public |
| Jim Leary, Member | General Public |
| Marilyn Lowe, Member | General Public |
| Gery Vander Meer, Member | General Public |
| Paul Engelking, Member | General Public |
| John Tamulonis, Member | Public Planning |

The Industrial Rules Subcommittee would like to thank George Davis from the Oregon Department of Environmental Quality and the LRAPA staff for helping the Subcommittee with information and materials.

The committee reviewed several aspects of the proposed rule changes and documented its recommendation in the following documents approved minutes dated Feb. 20, 2008.

1. Rules Stringency Analysis –Evaluates the 24 different proposed rule sections against five separate criteria. [See ‘Attachment A- Rule Summary and Stringency Analysis’ in the LRAPA Board October 14, 2008 Agenda Item 6 - Adoption of Proposed Industrial Permitting Rules (Including Attachments ‘A’ – ‘J’) in the ‘Documents relied on for fiscal and economic impact’ above]
2. New Source Review Stringency Analysis –Supports and expands on Item 9 of the Rule Stringency Analysis. [ See ‘Attachment C- New Source Review Analysis’ in the LRAPA Board October 14, 2008 Agenda Item 6 - Adoption of Proposed Industrial Permitting Rules (Including Attachments ‘A’ – ‘J’) in the ‘Documents relied on for fiscal and economic impact’ above ]
3. Fee and Workload Analysis –Supports and provides further detail on the expected fee and workload changes expected under the proposed rule changes. [See ‘Attachment B- Fee and Workload Analysis’ in the LRAPA Board October 14, 2008 Agenda Item 6 - Adoption of Proposed Industrial Permitting Rules (Including Attachments ‘A’ – ‘J’) in the ‘Documents relied on for fiscal and economic impact’ above]

 EQC prior involvement

DEQ shares general rulemaking information with EQC through the annual DEQ Rulemaking Plan review and monthly status report. DEQ did not present additional information specific to this proposed rule revision beyond the annual rulemaking plan and the monthly rulemaking report.

Public notice

The January 2014[*Oregon Bulletin*](http://arcweb.sos.state.or.us/pages/rules/bulletin/past.html) will publish the Notice of Proposed Rulemaking with Hearing .

DEQ also:

* Posted notice on DEQ’s webpage <http://www.oregon.gov/deq/RulesandRegulations/Pages/2013/LRAPAOB.aspx> on Dec. 13, 2013.
* E-mailed notice on December 13, 2013 to:
* Interested parties through GovDelivery
* Interested parties and stakeholders provided to DEQ by LRAPA
* The following key legislators required under [ORS 183.335](http://www.leg.state.or.us/ors/183.html):
	+ Enter name, title, committee here.
	+ Enter name, title, committee here.
	+ Enter name, title, committee here.
* Members of LRAPA’s advisory committee.
* Mailed the notice by U.S. Postal Service to ## interested parties on December 13, 2013.
* Sent notice to EPA on mmm dd, yyyy.
* Published legal advertisement in the following newspapers on Dec. 13, 2013:
	+ - Oregonian
		- Register Guard
		- Beacon
		- Cottage Grove Sentinel

Public hearings

One public hearing will be held. DEQ authorized LRAPA to act as DEQ’s hearings officer on behalf of the Environmental Quality Commission for public comment on the rule amendments. The table below includes information about how to participate in the public hearing. DEQ’s authorization is indicated in the letter to LRAPA in the Stringency Review and Authorization section of this document.

Before taking public comment and according to [Oregon Administrative Rule 137-001-0030](http://arcweb.sos.state.or.us/pages/rules/oars_100/oar_137/137_001.html), the staff presenter will summarize the content of the notice given under [Oregon Revised Statute 183.335](http://www.leg.state.or.us/ors/183.html) and respond to any questions about the rulemaking.

DEQ will add the names, addresses and affiliations of all hearing attendees to the interested parties list for this rule if provided on a registration form or the attendee list. DEQ will consider all oral and written comments received at the hearings listed below before finalizing the proposed rules. All comments will be summarized and DEQ will respond to comments on the Environmental Quality Commission staff report.

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Close of public comment period

The comment period will close on January 16, 2014 at 5:00 p.m.

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| LRAPA Industrial Permitting Rules adopted by the LRAPA Board of Director’s on October 14, 2008 and proposed for incorporation into the Oregon State Implementation Plan |

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|  LRAPA Industrial Permitting Rules adopted by the LRAPA Board of Director’s on January 12, 2010 and proposed for incorporation into the Oregon State Implementation Plan  |