

Invitation to Comment

Incorporate Lane Regional Air Protection Agency rules for open burning into State Implementation Plan

DEQ invites input on a proposed permanent rule amendment to chapter 340 of the Oregon Administrative Rules.

DEQ proposal

DEQ proposes to incorporate Lane Regional Air Protection Agency rules for open burning into Oregon's State Implementation Plan in OAR 340-200-0040.

Rulemaking goal

LRAPA adopted revisions to its open burning rules in an effort to meet National Ambient Air Quality Standards for fine particulate matter. LRAPA's open burning rules provide a consistent basis for complaint response and help prevent public nuisances and violations of the federal standards. Indicators of the success of this program will be attainment and maintenance of PM10 and PM2.5 air quality health standards, reduced impacts of residential open burning on neighbors and fewer public complaints.

In order for LRAPA and the state to maintain compliance with the Clean Air Act, the Environmental Quality Commission:

- Reviews LRAPA's rules
- Concludes whether the rules comply with state law and the Clean Air Act
- Approves the rules
- Directs DEQ to submit approved rules to EPA for approval and incorporation, as appropriate, into the federally-approved State Implementation Plan

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

Who does this affect?

This proposal primarily affects residential open burning in Lane County.

Sign up for notices

Sign up to receive rulemaking notices by email: <http://www.oregon.gov/deq/RulesandRegulations/Pages/2013/RulemakingActivities.aspx>.

Attend a hearing

DEQ invites you to attend the public hearing listed below. The presiding officer will provide a brief overview of the proposal before inviting your spoken or written comment.

Location: Springfield, Oregon
Lane County Regional Air Protection Agency
1010 Main Street
Time: 5:30 p.m.
Date: Wednesday, January 22, 2014
Presiding Officer: Merlyn Hough

Comment deadline

To consider comments on the proposed rules, DEQ must receive the comment by
5 p.m. Monday, January 27, 2014

More information

The Rule Proposal and Notice for this rulemaking are on DEQ's website: <http://www.oregon.gov/deq/RulesandRegulations/Pages/2013/LRAPAOB.aspx>



Submit written comments

Online

[Comment form](#)

By mail

Oregon DEQ
Attn: Andrea Gartenbaum
811 SW 6th Ave.
Portland, OR 97204

By fax 503-229-5675

Attn: Andrea Gartenbaum

At hearing

See Attend a hearing

Comment deadline

Jan. 27, 2014 by 5 p.m.

What has happened so far?

Before LRAPA's Board adopted the rules, DEQ reviewed appropriate rules and found the regulations to be as stringent as comparable DEQ rules. DEQ also evaluated the rules in light of events that have occurred since the LRAPA Board adopted the rules in 2008.

Typically, DEQ submits LRAPA rules to EQC for incorporation into the State Implementation Plan immediately upon the LRAPA Board's adoption. 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.

Documents used to develop proposal

DEQ relied on the following documents to consider the need for the proposed rule and prepare the rulemaking documents.

- LRAPA Title 47 Open burning rules adopted by the LRAPA Board of Directors on March 14, 2008
- Letter from DEQ to LRAPA, July 20, 2007, Stringency review of Title 47 amendments
- Letter from DEQ to LRAPA, November 22, 2013, Stringency review of LRAPA's rules
- [Oregon Administrative Rules for Open Burning - Chapter 340 Division 264](#)

What will happen next?

DEQ will prepare a written response to each comment or summary of similar comments received by the comment deadline. DEQ may modify the rule proposal based on the comments.

Comments or summary of comments and responses will become part of the DEQ staff report that will go to the Oregon [Environmental Quality Commission](#) for a final decision.

Present proposal to the EQC

The Environmental Quality Commission is the board that reviews all proposed changes to division 340 of the Oregon Administrative Rules. The commission adopts, rejects, or adopts with changes, any proposed rule.

DEQ plans to take the final proposal including any modifications made in response to public comments to EQC for decision at its March 2014 meeting. If adopted, DEQ will submit the amendments to the U.S. Environmental Protection Agency as a revision to the State Implementation Plan required by the Clean Air Act.

Accessibility information

You may review copies of all websites and documents referenced in this announcement at:

1. Lane County Regional Air Protection Agency
1010 Main Street
Springfield, OR 97477
2. Oregon DEQ Floor 10
811 SW 6th Avenue
Portland, OR 97204

To schedule a review, call Andrea Gartenbaum at 503-229-5946.

Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach, Portland, at 503-229-5696 or call toll-free in Oregon at 1-800-452-4011; fax to 503-229-6762; or email to deqinfo@deq.state.or.us. Hearing impaired persons may call 711

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 200

GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

General

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 [\[Insert EQC adoption date\]](#)~~October 16, 2013~~.

(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](#)



Oregon Department of Environmental Quality

December 18, 2013
Notice of Proposed Rulemaking

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

Overview

Short summary

DEQ proposes 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 to better coordinate with state and federal requirements. The LRAPA rules were revised 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. The agency is funded by 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.

On March 14, 2008, the LRAPA Board of Directors adopted the Title 47 open burning rules, provided at the end of this document, 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 as adopted by EQC under OAR 340-200-0040 and approved by EPA. EQC's role is to review LRAPA rules to determine if they comply with state law and the

Clean Air Act, approve those rules if they comply, and direct DEQ to submit the approved rules to EPA for federal approval as State Implementation Plan amendments.

Typically, DEQ submits LRAPA rules to EQC for incorporation into the State Implementation Plan immediately 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

This proposal does 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.

Stringency Review and Authorization



Oregon

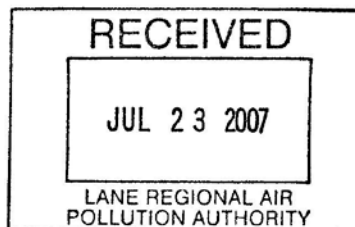
Theodore R. Kulongoski, Governor

Department of Environmental Quality

811 SW Sixth Avenue
Portland, OR 97204-1390
503-229-5696
TTY: 503-229-6993

July 20, 2007

Meryln Hough, Director
Lane Regional Air Pollution Authority
1010 Main Street
Springfield, OR 97477



Re: Proposed Amendments to LRAPA Title 47, Open Burning Rules

Dear Merlyn:

DEQ has reviewed your proposed amendments to LRAPA Title 47, Open Burning Rules, which were received July 16, 2007. We find that the proposed regulations to be as stringent as comparable rules of the Department.

We hereby authorize LRAPA to act as Hearings Officer on behalf of the Environmental Quality Commission for public comment on these rule amendments, including the proposal to amend OAR 340-200-0040 to incorporate relevant portions of these rule amendments as modifications to Oregon's State Implementation Plan. If you have any questions, please contact Gary Beyer at 503-229-6457.

Sincerely,

*Margaret Oliphant for
Andrew Ginsburg*

Andrew Ginsburg
Air Quality Division Administrator
Oregon Department of Environmental Quality

cc: Gary Beyer, DEQ



Oregon

John A. Kitzhaber, MD, Governor

Department of Environmental Quality

Headquarters
811 SW Sixth Avenue
Portland, OR 97204-1390
(503) 229-5696
FAX (503) 229-6124
TTY: 711

November 22, 2013

Merlyn Hough, Director
Lane Regional Air Protection Agency
1010 Main Street
Springfield, OR 97477

Re: Proposal to incorporate Lane Regional Air Protection Agency rules into the State Implementation Plan; and stringency review of LRAPA's rules adopting New Source Review, Prevention of Significant Deterioration, and federal emission standards

Dear Mr. Hough,

DEQ is proposing a rulemaking to incorporate LRAPA rules into the Oregon State Implementation Plan. This includes LRAPA rules for open burning, permit streamlining, New Source Review and Prevention of Significant Deterioration requirements for PM2.5 and greenhouse gases, and national emission standards for hazardous air pollutants. The LRAPA rules were adopted by the LRAPA Board of Directors several years ago and have been in effect in Lane County since their adoption.

Typically, DEQ submits LRAPA rules to the Environmental Quality Commission 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.

DEQ is holding a 30-day public comment period beginning in December 2013 to incorporate relevant portions of the LRAPA rules as a modification to the State Implementation Plan in Oregon Administrative Rule 340-200-0040. The date of LRAPA Board adoption is provided for each rule:

- Open Burning: LRAPA Title 47 adopted March 14, 2008
- Industrial Streamlining Rules: LRAPA Titles 12, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 44, 45, 46, 48, 49, and 50 adopted October 14, 2008
- Industrial Streamlining Rules Updates and Corrections: LRAPA Titles 12, 13, 30, 31, 34, 37, 38, 40, and 44 adopted January 12, 2010.
- New Source Review, Particulate Matter 2.5 and Greenhouse Gas Permitting Requirements: LRAPA Titles 12, 32, 34, 36, 37, 38, 40, 42, 44, 46, and 50 adopted April 25, 2011

Before LRAPA's Board adopted each of the rules, DEQ reviewed the rules and found the regulations to be as stringent as comparable rules of DEQ. Because the 2010 industrial streamlining rules consist of technical, non-substantive corrections and permitting standards for



sources that are not required to be permitted under state rules, they therefore do not alter DEQ's conclusion that LRAPA's rules are "as stringent as comparable rules of DEQ."

DEQ hereby authorizes LRAPA to act as hearings Officer on behalf of the EQC for public comment on the rule amendments, including the proposal to amend OAR 340-200-0040 to incorporate relevant portions of these rules amendments as modification to the Oregon State Implementation Plan. The amendments will be presented to EQC for consideration in March 2014. If EQC adopts the rules, they will be submitted by DEQ to the U.S. Environmental Protection Agency as a revision to the State Implementation Plan under OAR 340-200-0040 as a requirement of the Clean Air Act.

If you have any questions, please contact Andrea Gartenbaum at 503-229-5946.

Sincerely,

A handwritten signature in black ink that reads "Andrew Ginsburg". The signature is written in a cursive, slightly slanted style.

Andrew Ginsburg
Air Quality Division Administrator
Oregon Department of Environmental Quality

CC: Andrea Gartenbaum, Air Quality Division Rules Coordinator

Statement of need

What need is DEQ trying to address?

For LRAPA and the state to maintain compliance with the Clean Air Act, EQC must review LRAPA's rules and, if EQC concludes that the rules comply with state law and the Clean Air Act, approve the rules and direct DEQ to submit them to EPA for approval and incorporation, as appropriate, into the federally-approved State Implementation Plan. The State Implementation Plan does not contain the rules provided at the end of this document, which were adopted by the LRAPA Board of Director's in 2008. LRAPA adopted changes to its Title 47 open burning rules in an effort to meet federal particulate standards for PM2.5.

Lane County records the highest levels of PM2.5 from November through February. LRAPA adopted changes to its Title 47 open burning rules to prohibit all open burning within the Eugene-Springfield maintenance area during this period to reduce the potential that areas of Lane County could exceed federal particulate standards for PM2.5. LRAPA's old open burning rules did not adequately address small recreational fires or accommodate the Hazeldell and Siuslaw Rural Fire Protection Districts request to be included in the special open-burning control area. Some definitions were not clear or no longer met the current conditions.

Open burning and backyard burning are major sources of air pollution complaints that LRAPA receives and result in a significant portion of the monthly LRAPA enforcement cases. Open burning complaints were consistently less than 100 per year during 1990-2000 and steadily increased to an average of over 300 per year during 2007-2008.

How would the proposed rule address the need?

LRAPA's open burning rules provide a consistent basis for complaint response and help prevent public nuisances and violations of PM2.5 National Ambient Air Quality Standards in Lane County.

How will DEQ know the need has been addressed?

The open burning control program will continue to require LRAPA's diligent implementation to minimize air pollution impacts and nuisances. Indicators of the success of this program will be attainment and maintenance of PM10 and PM2.5 air quality health standards, reduced impacts of residential open burning on neighbors and fewer public complaints.

If EQC adopts the proposed rule, DEQ would submit the rule to EPA to update the federally-approved State Implementation Plan. DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the changes to the State Implementation Plan.

Request for other options

During the public comment period, DEQ requests 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.

Rules affected, authorities, supporting documents

Lead division Program or activity
Air Quality Division State Implementation Plan

Chapter 340 action

Amend OAR 340-200-0040

Statutory authority

ORS 468.020, 468A.035, 468A.135

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 468 and 468A

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

Document title	Document location
LRAPA Title 47 Open burning rules adopted March 14, 2008	Provided at the end of this document
LRAPA Board of Directors Meeting, March 14, 2008, Item 4: Adoption of Title 47 amendments	DEQ Headquarters 811 SW 6 th Avenue Portland, OR 97204
Oregon Administrative Rules for Open Burning - Chapter 340 Division 264	http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_264.html
Letter from DEQ to LRAPA, July 20, 2007, Stringency review of Title 47 amendments	DEQ Headquarters 811 SW 6 th Avenue Portland, OR 97204
Letter from DEQ to LRAPA, November 22, 2013, Proposal to incorporate Lane Regional Air Protection Agency rules into the State Implementation Plan and stringency review of LRAPA's rules	DEQ Headquarters 811 SW 6 th Avenue Portland, OR 97204

Fee Analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

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

Fiscal and Economic Impact

The proposed rule has no significant fiscal or economic impact. This proposal involves minor clarifications and updates that primarily affect residential open burning in Lane County.

In 2008, LRAPA's original analysis determined that the rule amendments have no significant fiscal or economic impact. In 2013, DEQ in consultation with LRAPA reevaluated the proposed rule and DEQ determined LRAPA's original analysis is reasonable and still correct considering events that have occurred since 2008.

Statement of Cost of Compliance

Impacts on public

There is no significant fiscal or economic impact on the general public.

Impact on other government entities other than DEQ

- a. Local governments No significant impact, including LRAPA
- b. State agencies No significant impact

Impact on DEQ [ORS 183.335](#)

There is no significant fiscal or economic impact on DEQ.

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

This proposal primarily affects residential open burning in Lane County and would have no significant fiscal or economic impact on large businesses.

Impact on small businesses (those with 50 or fewer employees) [ORS 183.336](#)

This proposal primarily affects residential open burning in Lane County and would have no significant fiscal or economic impact on small businesses.

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

This proposal does not affect small businesses.

b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services,

This proposal does not affect small businesses; therefore, no additional activities apply to small businesses.

required for small businesses to comply with the proposed rule.

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

This proposal does not affect small businesses; therefore, small businesses do not need additional resources to comply.

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

This proposal does not affect small businesses; therefore, small businesses were not involved in developing this proposal.

Documents relied on for fiscal and economic impact

Document title	Document location
LRAPA Title 47 Open burning rules adopted March 14, 2008	Provided at the end of this document
LRAPA Board of Directors Meeting, March 14, 2008, Item 4: Adoption of Title 47 amendments	DEQ Headquarters 811 SW 6 th Avenue Portland, OR 97204
Oregon Administrative Rules for Open Burning - Chapter 340 Division 264	http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_264.html
Letter from DEQ to LRAPA, July 20, 2007, Stringency review of Title 47 amendments	DEQ Headquarters 811 SW 6 th Avenue Portland, OR 97204
Letter from DEQ to LRAPA, November 22, 2013, Proposal to incorporate Lane Regional Air Protection Agency rules into the State Implementation Plan and stringency review of LRAPA's rules	DEQ Headquarters 811 SW 6 th Avenue Portland, OR 97204

Advisory committee

DEQ did not appoint an advisory committee. LRAPA followed appropriate requirements for rulemaking when it adopted its rules.

Housing cost

To comply with [ORS 183.534](#), DEQ determined the proposed rule 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. Adoption of DEQ's rules would provide for DEQ to submit LRAPA's rules to EPA for incorporation into the State Implementation Plan. Any affects of LRAPA's rules on residential open burning occurred when LRAPA adopted the rules, and the rules applied in Lane County upon LRAPA's adoption.

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..." [ORS 183.332](#)

Relationship to federal requirements

This section complies with OAR 340-011-0029 and ORS 468A.327 to clearly identify the relationship between the proposed rule and applicable federal requirements.

The proposed rule is “in addition to federal requirements.”

The 2008 LRAPA rules help to reduce the potential that areas of Lane County could exceed federal particulate standards for PM_{2.5}. There are no federal rules applicable to open burning. LRAPA’s 2008 open burning rules are an element of the State Implementation Plan that is a federally approved and enforceable strategy outlining how Oregon will meet federal air quality standards to protect public health and the environment.

What alternatives did DEQ consider if any?

A total ban on open burning was not considered feasible in an area as diverse as Lane County. Open burning is recognized as an important tool for disposal of yard debris and reducing overall fire danger, especially on larger acreages in more rural areas of Lane County.

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](#), [OAR 018-0010](#)

Land-use considerations

To determine whether the proposed rule involves 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 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](#) for EQC rules on land-use coordination. Division 18 requires DEQ to determine whether the proposed rule 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](#).
- 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 rule.
- Present or future land uses identified in acknowledged comprehensive plans.

Determination

DEQ determined that the proposed rule, OAR 340-200-0040, **does not affect** existing rules, programs or activities that are considered land-use programs and actions in OAR 340-018-0030 or in the DEQ State Agency Coordination Program. LRAPA's rules are consistent with land use in applicable Lane County land use plans.

Stakeholder and public involvement

Advisory committee

DEQ did not convene an advisory committee. LRAPA followed appropriate requirements for rulemaking when it adopted its rules.

EQC prior involvement

DEQ shares general rulemaking information with EQC through the monthly Director's Report. DEQ did not present additional information specific to this proposed rule revision.

Public notice

The January 2014 [*Oregon Bulletin*](#) 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. 18, 2013.
- E-mailed notice on Dec. 18, 2013 to:
 - Interested parties through GovDelivery
 - Interested parties and stakeholders provided to DEQ by LRAPA
 - The following key legislators required under [ORS 183.335](#):
 - Jules Bailey, Chair, House Energy and Environment Committee
 - Michael Dembrow, Chair, Senate Environment and Natural Resources Committee
 - Members of LRAPA's advisory committee
 - Members of LRAPA's Board of Directors
- Mailed the notice by U.S. Postal Service to 209 interested parties on December 18, 2013.
- Sent notice to EPA on Aug. 20, 2013.
- Published legal advertisement in the following newspapers on Dec. 18, 2013:
 - Oregonian
 - Register Guard

Public hearings

DEQ authorized LRAPA to act as hearings officer for public hearing listed in the table below that includes information about how to participate. DEQ's authorization is 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](#), the staff presenter will summarize the content of the notice given under [Oregon Revised Statute 183.335](#) 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 rule. DEQ will summarize all comments and DEQ will respond to comments on the Environmental Quality Commission staff report.

Hearing	
Date	Wednesday, Jan. 22, 2014
Time	5:30 p.m.
Address	LRAPA
	1010 Main Street
City	Springfield, Oregon 97477
Presiding officer	Merlyn Hough, Agency Director, Operations
Staff presenter	Max Hueftle, Permit Section Manager, Operations

Close of public comment period

The comment period will close on Jan. 27, 2014 at 5 p.m.

LRAPA Title 47 Rules Adopted by the LRAPA Board of Directors on March 14, 2008 and Proposed For Incorporation into the Oregon State Implementation Plan

LANE REGIONAL AIR ~~[POLLUTION AUTHORITY]~~ PROTECTION AGENCY TITLE 47 Open Burning

PROPOSED AMENDMENTS DRAFT #10 FEBRUARY 29, 2008

Open burning in compliance with the rules in this Title 47 does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order, or decree of this or any other governmental entity having jurisdiction.

Section 47-001 General Policy

In order to restore and maintain Lane County air quality in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the County, it is the policy of the Lane Regional Air ~~[Pollution Authority]~~ Protection Agency to eliminate open burning disposal practices where alternative disposal methods are feasible. As a result, all open burning is prohibited in Lane County except as expressly allowed by these rules or if exempted from these rules by Oregon Statute. Contained in these rules are the requirements for the open burning of residential, construction, demolition, commercial, and industrial waste, and forest slash waste on properties outside the Oregon Smoke Management Plan.

Section 47-005 ~~[Statutory]~~ Exemptions from These Rules

1. Statutory exemptions. Due to Oregon statutory exemptions, these rules shall not apply to the following:
 - [1] A. The operation of residential barbecue equipment for the purpose of cooking food for human consumption, except that materials described in Section 47-015-1.E shall not be used as fuel.
 - [2] B. Fires set or permitted by any public agency in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, a hazard to public health or safety, or for the instruction of employees in the methods of fire fighting.
 - [3] C. Agricultural open burning.
 - [4] D. Open burning on forest land permitted under the Oregon Department of Forestry (ODF) Smoke Management Plan filed with the Secretary of State.
2. Other exemptions.
 - A. Recreational fires, set for recreational purposes in designated recreational areas (such as parks, recreational campsites, and campgrounds, and on private property). Prohibited

materials listed in Section 47-015-1.E, woody yard trimmings, leaves and grass clippings shall not be burned. Within the Eugene/ Springfield Urban Growth Boundary and within the city limits of Oakridge, these fires are prohibited on Yellow and Red Home Wood Heating Advisory days set by LRAPA during the months of November, December, January, and February. [NOTE: LOCAL ORDINANCES FROM MUNICIPALITIES, RULES FROM LOCAL FIRE DISTRICTS, AND RULES FROM OREGON DEPARTMENT OF FORESTRY AND STATE FIRE MARSHAL MAY BE MORE PROHIBITIVE.]

- B. Outdoor barbecuing, when food is cooked by a fire that is sized proportionally to the amount of food being cooked, connected ~~[with]~~ to a group outing[s], festival[s], fair[s] or similar occasion[s], is allowed, except that prohibited materials listed in Section 47-015-1.E and commercial, industrial, construction, and demolition waste shall not be burned.
- C. Religious ceremonial fires are allowed. Prohibited materials shall not be burned. Within the Eugene/ Springfield Urban Growth Boundary and within the city limits of Oakridge, these fires are prohibited on Yellow and Red Home Wood Heating Curtailment Advisory days set by LRAPA during the months of November, December, January, and February.

First shot set back only - strike everything else starting at "within the Eugene/ Springfield"

Section 47-015-01.E Boundary and within and Red Home Wood months of November,

Section 47-005 Amended 10/12/99

Section 47-010 Definitions

The following definitions apply to this title, and additional general definitions can be found in Title 12 of these Rules and Regulations.

- "Agricultural open burning" means the open burning of vegetative "agricultural wastes," which are materials actually generated or used by an agricultural operation.
- "Agricultural operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and [selling] the sale of crops or by the raising and sale of livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose. It does not include the construction and use of dwellings or structures customarily provided in conjunction with the agricultural operation.
- "Agricultural waste" means any vegetative material actually generated or used by an agricultural operation but excluding those materials described in Section 47-015-1.E.
- "Bonfire" means a controlled outdoor fire held for celebratory, ceremonial, or entertainment purposes.
- "Commercial open burning" means the open burning of "commercial wastes," which are materials actually generated or used by a commercial operation including removed and transported materials, and excluding those materials described in Section 47-015-1.E..
- "Construction open burning" means the open burning of "construction wastes," which are materials actually resulting from or produced by a building or construction project, excluding

those materials described in Section 47-015-1.E. The open burning of construction waste materials which are actually resulting from or produced by a building or construction project, excluding those materials described in Section 47-015-1.E., that are transported from tax lot of origin is Commercial open burning.

- "Demolition open burning" means the open burning of "demolition wastes," which are materials actually resulting from or produced by the complete or partial destruction or tearing down of any man-made structure or the clearing of any site, or land clearing for site preparation for development, excluding those materials described in Section 47-015-1.E. The open burning of demolition waste materials which are actually resulting from or produced by the complete or partial destruction or tearing down of any man-made structure or the clearing of any site, or land clearing for site preparation for development, excluding those materials described in Section 47-015-1.E., that are transported from tax lot of origin is Commercial open burning.
- "Eugene-Springfield Urban Growth Boundary (ESUGB)" means the area within and around the cities of Eugene and Springfield, as described in the currently acknowledged Eugene-Springfield Metropolitan Area General Plan, as amended.
- "Forest slash open burning" means burning of vegetative debris and refuse on forest land related to the growing and/or harvesting of forest tree species where there is no change in the use of the land from timber production. Forest slash open burning does not include burning for commercial or individual use, or for any other type of land clearing not related to the growing and harvesting of forest tree species.
- "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and serving of food.
- "Industrial open burning" means the open burning of "industrial wastes," which are materials produced as a direct result of any manufacturing or industrial process, excluding those materials described in Section 47-015-1.E.
- "Land clearing" means the removal of trees, brush, logs, stumps, debris, or man-made structures for the purpose of site clean-up or site preparation.
- "Leaves" means needle or leaf materials which have fallen from trees, shrubs, or plants on the property around a dwelling unit.
- "Nuisance" means a substantial and unreasonable interference with another's use and enjoyment of real property, or the substantial and unreasonable invasion of a right common to members of the general public. (See Title 12 of these Rules and Regulations)
- "Open burning" includes burning in open fires, burn barrels, incinerators which do not meet emission limitations specified in [Section 30-020] Title 30 of these Rules and Regulations, and any other outdoor burning which occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

- "Recreational fire" means a small fire (combustible pile no larger than 3 feet in diameter and 2 feet in height), limited to cooking fires, and campfires, or fires lit in Chimineas, patio fireplaces, fire pits, or other similar devices using charcoal, natural gas, propane, manufactured firelogs, or clean dry natural firewood as fuel, and which occurs in designated areas on public lands or on private property. The fire cannot serve as a disposal fire for waste materials, including woody yard trimmings, leaves, and grass clippings, or materials listed in 47-015-1.E.
- "Religious ceremonial fire" means a controlled fire integral to a religious ceremony or ritual, which is no larger than 5' x 5' in area, and burning fuel is used. Prohibited materials listed in Section 47-015-1.E. *scrape from*
- "Residential open burning" means the open burning of yard trimmings [and other materials] which are actually generated in or around a living unit. Once this material is removed from the property, it becomes commercial waste. Such materials actually generated in living units are commercial wastes. *"which is no longer fuel is used" have been settled in*
- "Responsible person" means each person who is in ownership, control, or custody of the property on which the open burning occurs, including any tenant thereof; or who is in ownership, control, or custody of the materials which are burned; or any person who causes or allows open burning to be initiated or maintained.
- "Salvage," as used in open burning rules, means the recovery, processing or use of woody debris for purposes including, but not limited to, energy production (such as fire wood or fuel), fiber production (such as soil amendments or mulch), or as a raw material for chemical or manufacturing processes.
- "Woody Yard Trimmings" means woody limbs, branches and twigs, with any attached leaves, which have been cut from or fallen from trees or shrubs from the property around a dwelling unit.

Section 47-010 Amended 10/12/99

Section 47-015 Open Burning Requirements

1. General requirements--to be met by all open burning conducted in accordance with these Rules and Regulations:
 - A. All open burning shall be constantly attended by a responsible person or an expressly authorized agent, until extinguished.
 - B. It shall be the duty of each responsible person to promptly extinguish any burning which is in violation of any rule of the LRAPA Board or of any permit issued by the [Authority] Agency.
 - C. No person shall cause, or allow to be initiated or maintained, any open burning which is prohibited by the burning advisory [because of meteorological or air quality conditions] issued by the Agency.

- D. No person shall cause, or allow to be initiated or maintained, any open burning which creates a ~~[private or public]~~ nuisance or a hazard to public safety.
- E. No person shall cause, or allow to be initiated or maintained, open burning of any garbage, plastics, wire insulation, automobile parts, asphalt, petroleum by-products, petroleum-treated materials, rubber products, animal remains, ~~[or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food]~~; or of any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants.
- F. To promote efficient burning and prevent excessive emissions of smoke, each responsible person shall assure that all combustible material is dried to the extent practicable and loosely stacked or windrowed to eliminate dirt, rocks and other non-combustible materials; and periodically restack or feed the burning pile to enhance combustion.
- G. No person shall cause, or allow to be initiated or maintained, any open burning at any solid waste disposal site unless authorized by a Solid Waste Permit issued pursuant to **OAR 340-94-040**. The ~~[Authority]~~ Agency shall be notified by the responsible person prior to such burning.
- H. ~~[Fires involving materials less than three (3) cubic yards of volume, set for recreational purposes in designated recreational areas (such as parks, recreational campsites, and campgrounds) are allowed, except that prohibited materials listed in Section 47-015-1.E shall not be burned.]~~ All burning shall be conducted in accordance with local fire safety regulations, including required minimum distances from structures.
- ~~[I. Outdoor barbecuing connected with group outings, festivals, fairs or similar occasions is allowed, except that prohibited materials listed in Section 47-015-1.E shall not be burned.]~~

2. Residential Open Burning Requirements

The residential open burning season is October ~~[15]~~ 1 through June 15, with the following restrictions:

- A. Residential open burning is allowed only on approved burning days, between sunrise and sunset, with a valid fire permit (if required by fire district). The ~~[beginning]~~ start and end times for burning vary~~[ies]~~ and ~~[is]~~ are set as part of the daily burning advisory~~[-however, fires must always be out by sunset]~~.
- B. All open burning is prohibited within the Eugene city limits.
- C. All open burning is prohibited within the Springfield city limits, except that burning of woody yard trimmings is allowed on lots of one-half acre or more on approved burn days from March 1 through June 15 and from October 1 through October 31.
- D. Within the ESUGB, burning is prohibited if required by local fire codes.

- E. Residential open burning outside the city limits of Eugene and Springfield but within the Eugene-Springfield Urban Growth Boundary is prohibited except that burning of woody yard trimmings is allowed on lots of one-half acre or more on approved burn days from March 1 through June 15 and from October 1 through October 31. ~~[permitted subject to the general requirements of Section 47-015-1, with the following restrictions:~~

- ~~(1) The burning of yard debris is limited to the woody yard trimmings from trees and shrubs growing upon the same premises where the burning occurs;~~
- ~~(2) Open Burning of leaves and grass clippings is prohibited; and~~
- ~~(3) The premises upon which such burning is to take place must be a private lot, as identified in the Lane County tax records, of one half acre in size or more.]~~

- F. Residential open burning of woody yard trimmings, leaves and grass clippings is allowed on approved burn days from October 1 through June 15 within the fire districts identified below:

- (1) Bailey-Spencer RFPD
- (2) Coburg ~~[RFPD]~~ Fire District
- (3) ~~[Cottage Grove/South Lane Fire District]~~ South Lane County Fire & Rescue
- (4) ~~[Creswell RFPD]~~
- (5) Dexter RFPD west of the Willamette Meridian
- (6) Eugene RFPD #1
- (7) Goshen ~~[RFPD]~~ Fire District
- (8) Hazeldell RFPD
- ~~(9) Junction City Fire District]~~
- (10) Junction City RFPD
- (11) Lane County Fire District #1
- (12) Lane ~~[RFPD #1]~~ Rural Fire & Rescue outside the ESUG[A]B
- (13) Lowell RFPD
- (14) ~~[Marcola]~~ Mohawk Valley RFPD
- (15) McKenzie ~~[RFPD]~~ Fire & Rescue outside the ESUG[A]B
- (16) Monroe RFPD, that portion within Lane County
- (17) Oakridge ~~[RFPD]~~ Fire & EMS
- (18) Pleasant Hill RFPD
- (19) Santa Clara ~~[RFPD]~~ Fire District outside the ESUG[A]B
- (20) Siuslaw Valley Fire & Rescue
- (21) Westfir ~~[RFPD]~~ Fire Department
- (22) Willakenzie RFPD
- (23) Zumwalt RFPD

- G. Residential open burning of woody yard trimmings, leaves, and grass clippings is allowed in Lane County, outside of the affected areas defined in 47-015-2.B through F of this section, on approved burn days from October 1 through June 15.

(Note: Some fire districts require burning permits. Fire districts may restrict burning whenever fire danger dictates. Persons wishing to conduct residential open burning should check first with their fire district.)

[G. ~~Residential open burning is allowed year-round outside of the affected areas defined in 47-015-2.B through F of this section.~~]

H. Failure to conduct residential open burning in accordance with this section is a violation of these rules and may be cause for assessment of civil penalties. Citations will be issued by authorized enforcement agents to responsible person(s) ~~[upon site inspection]~~ where residential open burning rules are violated pursuant to this section.

3. Construction/Demolition Open Burning Requirements

- A. Construction/demolition open burning is prohibited inside the ESUGB.
- B. Construction/demolition open burning is prohibited inside the affected areas described in 47-015-2.F, unless authorized pursuant to Section 47-020.
- C. Construction/demolition open burning is allowed elsewhere in Lane County, subject to the general requirements of Section 47-015-1.

4. Commercial Open Burning Requirements

- A. Commercial open burning is prohibited inside the ESUGB.
- B. Commercial open burning is prohibited elsewhere, unless authorized pursuant to Section 47-020.

5. Industrial Open Burning Requirements

- A. Industrial open burning is prohibited inside the ESUGB.
- B. Industrial open burning is prohibited elsewhere, unless authorized pursuant to Section 47-020.

6. Forest Slash Open Burning

- A. Forest slash open burning in areas covered by the Oregon Smoke Management Plan is regulated by the ODF pursuant to ORS 477.515.
- B. Forest slash open burning in Lane County which is in areas outside the Oregon Smoke Management Plan is treated by LRAPA as follows:
 - (1) Forest slash open burning is prohibited inside the ESUGB.
 - (2) Forest slash open burning is prohibited inside the affected areas described in 47-015-2.F, unless authorized pursuant to Section 47-020.

- (3) Forest slash open burning elsewhere in Lane County, on properties which are not covered by the ODF Smoke Management Plan, is prohibited unless authorized pursuant to Section 47-020.
- (4) Forest slash open burning will be coordinated with the ODF ~~[East Lane]~~ South Cascade and Western Lane districts and will occur as consistently as possible with slash burning advisories issued by the ODF.
- (5) A written plan~~[, approved by the ODF,]~~ is required under the Forest Practices Act (ORS 527) when burning is to be conducted:
 - (a) within 100 feet of type D or F streams (domestic water supply or fish-bearing streams), lakes or significant wetlands (see **OAR 629-605-0170(1)(a) and 629-615-0300(3)**); ~~[or]~~
 - (b) within 300 feet of protected resources listed under OAR 629-605-170(1)(b), (c), and (d); or
 - ~~[(b)c]~~ on highly erosive soils.

The ODF should be contacted for all Forest Practices Act requirements.

Section 47-015 Amended 10/26/01

Section 47-020 Letter Permits

1. Open burning of commercial, industrial, construction, demolition, or forest slash wastes on a singly occurring or infrequent basis, which is otherwise prohibited, and a bonfire held for a single event, may be permitted by a letter permit issued by the ~~[Authority]~~ Agency in accordance with this rule and subject to the general requirements in Section 47-015-1.
2. Prescribed burning of standing vegetation for the purpose of species or wetland conversion, pursuant to federal or state laws or programs to promote or enhance habitat for indigenous species of plants or animals, which is otherwise prohibited, may be permitted by a letter permit issued by the ~~[Authority]~~ Agency in accordance with section 47-020. These permits require a permit fee of \$100.
3. Prior to any burning, the applicant must also obtain a valid fire permit issued by the fire permit issuing agency having jurisdiction.
4. Permits issued for open burning other than prescribed burning of standing vegetation (47-020-2) require a permit fee of \$4 per cubic yard, with a minimum fee of \$50.
5. The following factors shall be evaluated in determining whether a letter permit will be approved or denied:
 - A. The quantity, type, and combustibility of the materials proposed to be burned;

- B. The costs and practicability of alternative disposal methods, including on-site and landfill disposal and salvage;
 - C. The seasonal timing and expected duration of the burn;
 - D. The willingness and ability of the applicant to promote efficient combustion by using heavy equipment, fans, pit incineration, or other appropriate methods;
 - E. The location of the proposed burn site with respect to potential adverse impacts;
 - F. The expected frequency of the need to dispose of materials by burning in the future;
 - G. Any prior open burning violations by the applicant;
 - H. Any additional relevant information.
6. Upon receipt and review of the required information, the [Authority] Agency may approve the application if it is satisfied that:
- A. The applicant has demonstrated that all reasonable alternatives have been explored and no practicable alternative method for disposal of the material exists;
 - B. The proposed burning will not cause or contribute to significant degradation of air quality;
 - C. There will be no actual or projected violation of any statute, rule, regulation, order, permit, ordinance, judgment, or decree.
7. The [Authority] Agency may revoke or suspend an issued letter permit, with no refund of the fee, via written or verbal notice, on any of the following grounds:
- A. Any material misstatement or omission in the required application information;
 - B. If the conditions of the permit are being violated;
 - C. Any actual or projected violation of any statute, rule, regulation, order, permit, ordinance, judgment, or decree;
 - D. Any other relevant factor.
8. Failure to conduct open burning according to the conditions, limitations, or terms of a letter permit, or any open burning in excess of that permitted by the letter permit, shall be a violation of the permit and shall be cause for assessment of civil penalties or for other enforcement action by the [Authority] Agency.
9. Each letter permit issued by the [Authority] Agency pursuant to this rule shall contain at least the following elements:
- A. The location at which the burning is permitted to take place;

- B. A description of the material that may be burned;
 - C. The calendar period during which the burning is permitted to take place;
 - D. The equipment and methods required to be used by the applicant to insure efficient burning;
 - E. The limitations, if any, based upon meteorological conditions required before burning may occur;
 - F. Reporting requirements for both starting the fire and completion of the requested burning;
 - G. A statement that Section 47-015-1 is fully applicable to all burning under the permit;
 - H. Such other conditions that the [Authority] Agency considers to be desirable.
 - I. A statement that the respective fire department may include any control, suppression, safety, or hazard conditions deemed appropriate by the fire department.
10. Letter permits issued by the [Authority] Agency pursuant to this rule shall be forwarded to the fire permit issuing agency having jurisdiction. The fire permit issuing agency has the ultimate authority to issue or deny the burn permit.
- ~~[11. Letter permits are valid only for the specified burning period and shall not be renewable unless there were no approved burning days during that period. Any requests to conduct additional burning shall require a new permit.]~~

Section 47-020 Amended 10/12/99

Section 47-030 Summary of Seasons, Areas, and Permit Requirements for Open Burning

Type of Burning	Inside City Limits of Eugene	Inside City Limits of Springfield	Elsewhere Inside the ESUGB	Inside Affected Fire Districts and Outside ESUGB	All Other Areas
Residential Open Burning (Section 47-015-2)	Prohibited by City Ordinance and by LRAPA Section 47-015-2.B	Prohibited by City Ordinance, except that, between October 15 and June 15, tree trimmings and shrub prunings, only, may be burned on lots of one-half acre or greater in size. Burning of grass clippings and fallen leaves is prohibited. Also prohibited by LRAPA Section 47-015-2.C	Prohibited by LRAPA Title 47, except that, between October 15 and June 15, tree trimmings and shrub prunings, only, may be burned on lots of one-half acre or greater in size. Burning of grass clippings and fallen leaves is prohibited.	Burning of woody yard trimmings, leaves, and grass clippings is allowed between October 15 and June 15 on approved burning days with a valid permit from the local fire district (where required by fire district)	Burning of clean wood and yard debris is allowed year-round on approved burning days with a valid permit from the local fire district (where required by fire district)
Construction/ Demolition Open Burning (Section 47-015-3)	Burning is prohibited by city ordinance and by LRAPA Section 47-015-3	Burning is prohibited by city ordinance and by LRAPA Section 47-015-3	Burning is prohibited by LRAPA Section 47-015-3	Burning is prohibited, except by letter permit from LRAPA	Burning of approved materials is allowed year-round on approved burning days with a valid permit from the local fire district (where required by fire district)
Commercial Open Burning (Section 47-015-4)	Burning is prohibited by city ordinance and by LRAPA Section 47-015-4	Burning is prohibited by city ordinance and by LRAPA Section 47-015-4	Burning is prohibited by LRAPA Section 47-015-4	Burning is prohibited, except by letter permit from LRAPA	Burning is prohibited, except by letter permit from LRAPA
Industrial Open Burning (Section 47-015-5)	Burning is prohibited by city ordinance and by LRAPA Section 47-015-5	Burning is prohibited by city ordinance and by LRAPA Section 47-015-5	Burning is prohibited by LRAPA Section 47-015-5	Burning is prohibited, except by letter permit from LRAPA	Burning is prohibited, except by letter permit from LRAPA
Forest Slash Open Burning (Section 47-015-6) <i>Except on lands included in the ODF Smoke Management Plan</i>	Burning is prohibited by city ordinance and by LRAPA Section 47-015-6	Burning is prohibited by city ordinance and by LRAPA Section 47-015-6	Burning is prohibited by LRAPA Section 47-015-6	Burning is prohibited, except by letter permit from LRAPA	Burning is prohibited, except by letter permit from LRAPA or Under the ODF Smoke Management Plan

General open burning requirements are contained in section 47-015. In case of apparent conflict between this summary and the text of section 47-001 through 47-020, inclusive, the text shall apply.

Section 47-030 Amended 10/26/01