

Lane Regional Air Protection Agency (LRAPA)
Proposed Rulemaking
STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT
This form accompanies a Notice of Proposed Rulemaking

Caption/Title of Proposed Rulemaking:	<p>Adoption of Streamlining and Updates</p> <p><u>Amend LRAPA Titles:</u></p> <p>12: Definition consolidation and clarification, de-listing HFE-7300 as a volatile organic compound (VOC)</p> <p>30: Incinerator rule updates and corrections</p> <p>32: Visible Emissions Rule clarification, Sulfur dioxide standard alignment with federal requirements,</p> <p>33: Kraft Pulp Mill Rule simplification, Board products rule emission standard simplification</p> <p>34: Adoption of new Stationary Source Notification Requirements</p> <p>36: Excess Emissions Rule alignment with federal requirements</p> <p>37: Move former Title 37 (Federal HAPs program) to Title 44.</p> <p>38: Major New Source Review clarifications to align with Oregon Department of Environmental Quality (ODEQ or the Department) and federal requirements. Move Emission Reduction Credits from Title 38 to new Title 41.</p> <p>46: Obtain delegation of authority for new New Source Performance Standards (NSPSs)</p> <p>48: Update LRAPA name</p> <p>49: Update LRAPA name</p> <p>50: Update to include recent changes to ozone National Ambient Air Quality Standards (NAAQS) and to include Prevention of Significant Deterioration (PSD) increments.</p> <p><u>Create new LRAPA Titles:</u></p> <p>29: Designation of Air Quality areas previously under Oregon Administrative Rules (OARs)</p> <p>31: New public participation rules previously partially contained in Title 34.</p> <p>35: Stationary Source Testing and Monitoring previously included in Title 34.</p> <p>37: New Air Contaminant Discharge Permit (ACDP) program streamlining consistent with ODEQ.</p> <p>40: Clarify Air Quality Analysis Requirements consistent with ODEQ, formerly contained in Title 38.</p> <p>41: Emission Reduction Credits (ERC) clarifications, formerly contained in Title 38.</p> <p>42: New Stationary Source Plant Site Emission Limits rules consistent with ODEQ.</p> <p>44: New title to adopt the Oregon State Hazardous Air Pollutants program.</p> <p><u>Repeal LRAPA Titles:</u></p> <p>33 Kraft Pulp Mill Rules redundant with federal requirements</p>
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	35 Major Source Interim Rules used to cover period in mid-1990's prior to development of Oregon Title V program.
Stat. Authority or other Legal Authority:	ORS 468A.135
Stat. Implemented:	ORS 468A.025
Need for the Rule(s)	The proposed changes are needed to improve LRAPA's permitting process, improve consistency with ODEQ and help maintain a federally approved permitting program. The proposed rules are also intended to reduce the amount of time required to permit industrial sources of air pollution while maintaining the same level of environmental protection, and allow LRAPA to focus on additional high priority work to protect air quality in Lane County. This is a comprehensive rule-making package, developed the Lane Regional Air Protection Agency (LRAPA) as an outcome of permit streamlining efforts the Oregon Department of Environmental Quality (the Department) and LRAPA have conducted. The proposed rules are not intended to change the overall stringency of the point source regulatory program but are designed to make the regulatory process simpler and more efficient. See Attachment A for a more complete summary of proposed changes, and Attachment B for proposed language.
Documents Relied Upon for Rulemaking	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 (dated August 10, 2007).
Requests for Other Options	ORS 183.335(2)(b)(G) requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.
Fiscal and Economic Impact, Statement of Cost Compliance	
Overview	<p>The proposed changes 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. See Attachment A for a more complete summary of proposed changes, and attachment B for proposed language.</p> <p>EPA determined that there would be no significant impact on small businesses when it exempted HFE-7300 from the definition of Volatile Organic Compounds. LRAPA's adoption of this exemption would likely benefit businesses by reducing regulatory burden and allowing expanded use of a commercially valuable compound.</p>
General public	<p>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.</p> <p>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.</p>

Small Business (50 or fewer employees – ORS183.310(10))	a) Estimated number and types of businesses impacted	LRAPA does not anticipate any negative fiscal or economic impacts from this proposed rulemaking on small businesses. LRAPA estimates that 50 to 70 small manufacturers and service businesses could be affected by air quality programs.
	b) Additional reporting requirements	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) Additional equipment and administration requirements	The proposed changes do not add new equipment or administrative requirements for small businesses.
	d) Describe how businesses were involved in development of this rulemaking	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.
<p>Many small businesses will be switching from either Minimal Source or Regular Air Contaminant Discharge Permits (ACDPs) to General or Simple ACDPs under the proposed rules. This switch will affect applicable fees associated with permitting. Fees and other anticipated impacts relating to the rules changes are briefly described below.</p> <p>Fees: Under the proposed fee and applicability structure, most small businesses subject to permitting will qualify for either a Basic Source Permit (\$360 /yr), a General ACDP (\$720 to \$1872/yr) or a Simple ACDP (\$1920 to 3840/yr). Under the existing rules, these same businesses are subject to fees ranging from about \$400 to \$7000 per year. While some small businesses will be charged more for a permit under the proposed rules, most will be charged about the same or less. Many small businesses will be moved from their current Regular or Minimal ACDPs to General ACDPs. Overall, LRAPA anticipates these proposed fee changes to be revenue neutral.</p> <p>Other Impacts: Some of the impacts and benefits listed under Large Business may also pertain to some small businesses that have high emissions or are located in sensitive airsheds.</p> <p>The proposal to exempt HFE-7300 from the definition of Volatile Organic Compounds will reduce the regulatory burden of tracking and limiting use of this chemical. Small businesses could also 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. In adopting this exemption, EPA determined the change would not negatively impact small businesses.</p> <p>Facilities could benefit from revisions to the Kraft Pulp Mill Rules. Creating Basic Permit categories may allow small businesses to avoid additional permitting costs. The remaining proposals have either no fiscal impact or slightly reduce regulatory burdens.</p>		
Large Business	<p>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.</p> <p>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.</p> <p>Many large businesses will require Standard ACDPs. However, since the type of permit required</p>	

	<p>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.</p> <p><u>Fees:</u> 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 than current fees.</p> <p><u>Reduced Time:</u> 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.</p> <p><u>Triggering Applicable Requirements:</u> 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.</p> <p><u>Monitoring and Reporting Costs:</u> 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.</p> <p><u>Emission Reduction Credits:</u> 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.</p>
Local Government	<p>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.</p> <p>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</p>

	<p>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.</p>
State Agencies	<p>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.</p> <p>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.</p>
LRAPA	<p>Most of the standards affected by the proposed revisions are implemented through the Air Contaminant Discharge Permit Program. The proposed rules will streamline the permitting process and reduce personnel time, resulting in long term cost savings. LRAPA expects a large portion of these savings to come from the expanded use of General Permits. This proposal will allow LRAPA to issue one permit for many similar businesses, which will reduce the permit drafting and processing time required for individually permitted sources. LRAPA does not expect to realize the full effect of savings for several years i.e., after a complete five year permitting cycle. See also the discussion under “State Agencies” above.</p>
Other agencies	<p>LRAPA anticipates that other agencies will experience mostly beneficial direct and indirect fiscal and economic impacts from this proposed rulemaking.</p> <p>EPA – LRAPA will request expedited review of the proposed State Implementation Plan (SIP) modifications affected by the proposed rule revisions. The EPA has been involved in this rulemaking project from the start and is committed to helping make it work. There are no expected fiscal impacts to the EPA as a result of the accelerated SIP approval process.</p> <p>Economic and Community Development Department - Some of the rule changes, for example “alternatives to preconstruction monitoring,” may help promote economic development by speeding up the permitting process. Clarifying and removing redundant requirements from the rules should result in consistent interpretation and implementation, which in turn reduces workload.</p>
Housing Costs	<p>LRAPA and the Department have determined that this proposed rulemaking will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.</p>
Administrative Rule Advisory Committee	<p>The LRAPA Advisory Committee 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.</p>
Assumptions	<p>LRAPA expects that approximately 50 of the existing 200 ACDP sources will become eligible and switch to General Permits upon availability in January, 2009.</p> <p>Table 1 below is an outline of the existing and proposed fee structure and was used as the basis for setting the proposed fee amounts listed in this rulemaking proposal.</p>

Table 1: Comparison of existing and proposed fee structures

Permit Type	Fee type	Existing fee	Proposed fee
Standard ACDP	Filing fee Initial permitting Application processing Annual compliance	\$129 /5 yrs. \$3400 to \$17,000 \$525 to \$52,000 /5yrs \$800 to \$27,000	NA \$12,000 to \$42,000 NA \$7680
Minimal ACDP		Same as Standard but annual compliance is paid every 5 years and application processing paid every 10 years	NA
General ACDP	Filing fee Initial permitting Application processing Annual compliance	NA	NA \$1200 NA \$720 to \$1872
Short term activity	Initial permitting	NA	\$3,000
Basic ACDP	Initial permitting Annual compliance	NA	\$120 \$360
Construction	Initial permitting	Same as Standard	\$9,600
Simple	Initial permitting Annual compliance	NA	\$6,000 \$1,920 to 3,840

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 three source categories.

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: Large Semi-Conductor Fab:

This type of facility would be a Category 61a under the existing fee table. In a ten-year period a typical facility and assuming it is also not currently a Synthetic Minor would pay:

- 10- annual compliance determination fees @ \$15,176 each
- 2 - renewal fees @ \$21,341 each
- 1 - modification fee @ \$15,176 each

Total: \$209,618

This type of facility would be assigned to a Standard ACDP under the new Table One (Title 37) and would pay:

- 10- annual fees @\$7,680
- 1- Initial permitting application fee @ 12,000
- 1 - modification fee @\$12,000

Total: \$100,800

Example 3: 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-assignment to General ACDP fee @ \$1,200

10- annual fees @\$1,296

Total: \$14,160

_____ Prepared by	_____ Printed name	_____ Date
_____ Approved by LRAPA Comptroller	_____ Printed name	_____ Date