

### **Industrial Permitting Rule Comments and Responses**

The following is a summary of written comments received by the Lane Regional Air Protection Agency (LRAPA or “the Agency”) as of September 3<sup>rd</sup>, 2008 on the proposed industrial permitting rule changes and the LRAPA responses to those comments. LRAPA would like to thank all those who have commented on the proposed rule changes. It is LRAPA’s endeavor to be transparent in this proposed rulemaking process but the industrial permitting rules are often complex and difficult to understand. If there are responses to comments that need additional clarifications please feel free to contact LRAPA. At this time the deadline for additional written comments is September 30, 2008.

1. Comment: Streamlining permits negatively impacts regional air quality and reduces standards. LRAPA’s priority should be protecting human health not streamlining permits.

LRAPA Response: The proposed industrial permitting rules would not negatively affect local or regional air quality because LRAPA is not changing the individual equipment/activity emission standards and the emission thresholds that trigger ambient analyses or control evaluations. Any streamlining would free LRAPA staff time allowing the Agency to focus on other important air quality issues while maintaining or increasing rule stringency. While streamlining is a component of the proposed rule changes, the draft rule changes are also needed to implement required fixes, correct errors, and improve rule clarity.

2. Comment: LRAPA should leave the rules alone or increase stringency beyond state requirements.

LRAPA Response: The LRAPA industrial permitting rules have essentially not been updated or corrected since they were first issued in the early 1990’s. The Oregon Department of Environmental Quality (ODEQ) historically had industrial permitting rules nearly identical to LRAPA’s current rules before adopting (in 2001 and 2007) these same proposed changes. Also please realize that LRAPA staff is not proposing to simply follow ODEQ’s lead. LRAPA had early input on the content of the ODEQ rule development and updating the industrial permitting rules have been regularly identified as high priority issues by the LRAPA board since October 2005.

3. Comment: LRAPA should require written toxics use reduction plans with specific timelines.

LRAPA Response: Please note that LRAPA will be requesting formal comment on a new local ambient air toxics program in the future and, while not part of this proposed rulemaking, the draft Oregon Air Toxics program detailed in Title 45 contains provisions designed to reduce ambient air toxics with specific timelines. The plan calls for public input on the community-based plan to reduce toxics and could include toxics use reduction plans for industrial sources as part of the strategy (among other aspects).

4. Comment: Hazardous Air Pollutants (HAPs) should be listed individually in permits.

LRAPA Response: Listing HAPs individually in each permit is not practical or necessary since the existing federal major source threshold for any one of 188 single HAPs as a Plant Site Emission Limit (PSEL) is ten (10) tons/year of any single HAP. LRAPA's proposed rules call for setting the generic plant site emission limit for individual HAPs at one ton below the major source threshold (9 tons/year for any single HAP). Please also note that federal limits for certain HAPs result in emissions limits for individual HAPs at much lower levels than the generic plant site emission limit, depending on compound toxicity and source type. For example, the federal standard for chrome plating reduces hexavalent chromium emissions to a level of approximately 10 pounds per year and a 9 ton/year PSEL would not be used in permitting those types of industrial sources. Every permit contains a review report that explains the legal and factual basis of the permit conditions and it is LRAPA's protocol to include maximum individual HAP amounts for each facility with the potential to emit appreciable amounts of HAPs.

5. Comment: LRAPA should require stringent Plant Site Emission Limits (PSELs) for all HAPs using best and most up-to-date health and safety standards.

LRAPA Response: While most of the onus is on sources to comply with air regulations, it is LRAPA's general responsibility to alert facilities that they may be subject to federal air toxic rules (National Emission Standards for Hazardous Air Pollutants) and to require monitoring to ensure compliance with regulations. Setting plant site emission limits for HAPs at any other level than just below major source threshold for federal air toxics rule applicability involves arbitrary speculation about the appropriate HAP PSEL level for hundreds of different sources and 188 compounds on the Clean Air Act HAPs list. For example, LRAPA could set a Methanol HAP PSEL for a source at 6 tons/year but the facility could request (and LRAPA could potentially be sued if it did not grant) an increase in the Methanol HAP PSEL all the way up to the major source threshold of 10 tons/year before any additional regulatory requirement is triggered. While not part of this formal request for comment at this time, the ambient air toxic draft rules in Title 45 include health-based benchmarks and are designed to reduce risks from all sources of those pollutants including non-permitted sources.

6. Comment: All equipment should meet Best Available Control Technology (BACT).

LRAPA Response: Please note that the rules are designed to require BACT for significant new sources or significant modifications at existing sources in areas that meet national air quality standards. Requiring BACT for all new and existing facilities regardless of size or type may not result in cleaner air for the citizens of Lane County (depending on the control level required in the BACT determination) and could result in additional emissions to the environment depending on control device type (e.g. natural gas-fired incinerators). A complete BACT analysis involves several potentially complicated technical steps including: control technology identification, engineering plans for sizing and feasibility of equipment, ambient monitoring and ambient dispersion analysis. Requiring a BACT analysis for all sources could

#### Attachment 4

impose immense economic strains on scores of businesses in Lane County and potentially cause many small businesses to close. The LRAPA review fee associated with projects that trigger BACT are the Level IV construction review in the amount of \$33,370 (\$42,000 under the proposed rules) in addition to those costs incurred by sources to complete the analysis and application required by the rules. Ongoing cost of operating the equipment could also be substantial.

7. Comment: Lowest Achievable Emission Rate (LAER) should be required for all sources of particulate matter (PM).

LRAPA Response: Please note that the rules are designed to require LAER for significant new sources or significant modifications at existing sources in areas that do not meet national air quality standards (the rest of the response is almost identical to that of the response to comment number 6). Requiring LAER for all new and existing facilities regardless of size or type may not result in cleaner air for the citizens of Lane County (depending on the control level required in the LAER determination) and could result in additional emissions to the environment depending on control device type (e.g. natural gas-fired incinerators). A complete LAER analysis involves several potentially complicated technical steps including: control technology identification, engineering plans for sizing and feasibility of equipment, ambient monitoring and ambient dispersion analysis. Requiring a LAER analysis for all sources could impose immense economic strains on scores of businesses in Lane County and potentially cause many small businesses to close. The LRAPA review fee associated with projects that trigger LAER are the Level IV construction review in the amount of \$33,370 (\$42,000 under the proposed rules) in addition to those costs incurred by sources to complete the analysis and application required by the rules. Ongoing cost of operating the equipment could also be substantial.

8. Comment: LRAPA should no longer bank emission reduction credits (ERCs).

LRAPA Response: ERCs are a basic component of a state implementation plan (SIP) and promote control beyond the level required by rule. ERCs also serve as an incentive for permanent curtailment or shutdown of emission sources. Please note that the proposed Title 41 Emission Reduction Credits (ERCs) rules are more selective than existing requirements in the qualifying criteria and emission credit amounts allowed.