

Oregon Department of Environmental Quality

**September 15, 2013**

Notice of Proposed Rulemaking

***Incorporate Lane Regional Air Protection Agency Rules***

***For PM2.5 and Greenhouse Gases Into***

***Oregon’s State Implementation Plan***

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| **Overview** |

Short summary

DEQ proposes amendments to Oregon Administrative Rule 340-200-0040 and Oregon’s State Implementation Plan to incorporate Lane Regional Air Protection Agency regulations for PM2.5 and greenhouse gases. The rule changes have been adopted by the LRAPA Board of Directors. LRAPA’s board amended LRAPA regulations to bring them in line with state rules and to better coordinate with state and federal requirements. The changes to LRAPA’s regulations include:

* Adoption of EPA’s PM2.5 New Source Review/Prevention of Significant Deterioration (NSR/PSD) thresholds and Greenhouse Gas (GHG) NSR/PSD implementing rules. Need to verify if this correct – are the changes to LRAPA regulations identical to state and federal rule?
* Air Contaminant Discharge Permit permitting requirements to improve LRAPA’s implementation of federal programs for hazardous air pollutants for area sources and other sources subject to an ACDP. Need to verify if this correct – The changes to LRAPA regulations are identical to state and federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) and ?
* Greenhouse gas reporting fees for ACDP sources as well as corrections to typographical errors and addition of definitions. In 2010, EQC adopted DEQ rules to create the greenhouse gas reporting fees.

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 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 approves and directs DEQ to submit all LRAPA rules to EPA as SIP 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.

The LRAPA Board adopted comprehensive industrial permitting streamlining rules on October 14, 2008 and corrections to those streamlining changes on January 12, 2010. The board adopted PM2.5 temporary rule changes on August 23, 2010. The temporary rules expired 180 days after adoption (expired February 19, 2011). At the October 2010 meeting, the board authorized public hearings for the draft rules. A public hearing was held at the January 24, 2011 and February 28, 2011 board meetings.

Regulated parties

This rulemaking regulates emissions of PM2.5 and GHG at all stationary sources emitting more than the ‘de minimis’ level of these pollutants. This rulemaking also regulates motor vehicle and mobile equipment surface coating and metal fabrication facilities subject to new and modified NESHAPs.

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| **Outline** |

The proposed rule making is comprised of five major groups of rule changes:

1. PM2.5 NSR/PSD permitting thresholds: Permitting changes for PM2.5 similar or identical to the temporary rule changes adopted August 23, 2010.
2. GHG NSR/PSD permitting thresholds: Permitting changes to establish the requirements specified by EPA in the GHG Tailoring Rule.
3. Other ACDP Permitting: Permitting changes for Air Contaminant Discharge Permits (ACDPs) including permitting for area sources of Hazardous Air Pollutants (HAPs) such as auto body surface coating and paint stripping.
4. ACDP GHG Fees: Fees for ACDP sources in Lane County subject to Greenhouse Gas (GHG) reporting requirements in OAR Division 215.
5. Other Corrections: Corrections to typographical errors, errors in rule citations and definitions.

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| **Statement of need** |

| **Proposed Rule or Topic** | **Discussion** |
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| PM2.5 New Source Review/Prevention of Significant Deterioration (NSR/PSD) permitting thresholds | |
| What problem is DEQ trying to solve? | The proposed NSR/PSD rules for PM2.5 are needed to implement this program once the United States Environmental Protection Agency repeals the PM10 surrogate policy. At that time, EPA rules will require states to update their PSD programs to include PM2.5. |
| How would the proposed rule solve the problem? | The proposed rules would replace a temporary rule that was adopted on August 23, 2010 and expired on February 19, 2011. The temporary rule will be replaced upon adoption of the final rule. The proposed rules differ from the temporary rules because EPA adopted different regulatory standards than anticipated; and LRAPA has developed new options for program implementation. |
| How will DEQ know the problem has been solved? | Upon EQC adoption, DEQ would submit the rules to EPA to update Oregon’s state implementation plan.  DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves changes to Oregon’s state implementation plan. |
| Greenhouse Gas (GHG) New Source Review/Prevention of Significant Deterioration | |
| What problem is DEQ trying to solve? | The proposed rules for GHGs are needed in response to regulations promulgated by EPA that require states to update their PSD and Title V programs to include GHGs. If LRAPA does not adopt these rules, LRAPA will lose federal approval to implement these programs and could face sanctions. |
| How would the proposed rule solve the problem? | Adoption of these rules will ensure that sources comply with federal GHG permitting requirements and help LRAPA retain approval to implement the PSD and Title V programs. |
| How will DEQ know the problem has been solved? | Upon EQC adoption, DEQ would submit the rules to EPA to update Oregon’s state implementation plan.  DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves changes to Oregon’s state implementation plan. |
| Other ACDP Permitting – A: General Permit Attachments and Fees | |
| What problem is DEQ trying to solve? | Adopting new and amended federal NSPS and NESHAP standards align LRAPA’s rules with DEQ’s and EPA’s so that LRAPA can keep federal delegation and implement these regulations. This benefits industry through quicker approval of applicability determination requests and alternative compliance demonstration requests. The public will also benefit from improved air quality resulting from LRAPA’s implementation of these regulations. General ACDP adoption is currently done through the public notice process.  With the adoption of numerous area source NESHAPs, it is difficult to include all requirements that apply to a category of businesses into a single general ACDP. It would also be burdensome to issue a single business multiple permits. This rulemaking would allow a business to be assigned to one general ACDP and one or more general ACDP attachments.  Affected businesses would be charged the full annual fee for one general ACDP and a reduced annual fee for each general ACDP attachment. |
| How would the proposed rule solve the problem? | Each general ACDP attachment would be a streamlined version of the corresponding General ACDP, with most of the general conditions removed. The rules would include a reduced fee for these attachments, which would fund LRAPA’s oversight of the standards contained in the attachments. The rules would allow LRAPA to charge businesses the full annual fee for one General ACDP and a reduced annual fee for each permit attachment rather than issuing a business multiple General ACDPs and collecting multiple permit fees. |
| How will DEQ know the problem has been solved? | Upon EQC adoption, DEQ would submit the rules to EPA to update Oregon’s state implementation plan.  DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves changes to Oregon’s state implementation plan. |
| Other ACDP Permitting – B: Registration as an alternative to permitting | |
| What problem is DEQ trying to solve? | Oregon’s small business advisory panel recommended registration and registration fees as an alternative to permitting and permit fees for auto body shops and dry cleaners certified through an approved environmental compliance certification program as a way to reduce LRAPA’s and DEQ’s administrative burden and recognize small businesses that commit to exemplary environmental practices. |
| How would the proposed rule solve the problem? | LRAPA is proposing registration and registration fees as an alternative to permitting and permit fees for auto body shops and dry cleaners certified through an approved environmental compliance certification program. These businesses must meet standards above minimum regulatory requirements and are exempt from permitting if they complete and maintain certification. The annual registration fees would fund LRAPA’s cost for developing and implementing the registration program and ensuring compliance with applicable standards. |
| How will DEQ know the problem has been solved? | Upon EQC adoption, DEQ would submit the rules to EPA to update Oregon’s state implementation plan.  DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves changes to Oregon’s state implementation plan. |
| Other ACDP Permitting – C: Exempting emergency-use and small electrical power generating units | |
| What problem is DEQ trying to solve? | EPA’s standards for new electric power generating units that were adopted by the LRAPA board on January 12, 2010 trigger permitting of sources with emergency generators or extremely small engines. |
| How would the proposed rule solve the problem? | The rules would provide an exemption for emergency generators and small electric power generating units to reduce the regulatory burden on these sources. |
| How will DEQ know the problem has been solved? | Upon EQC adoption, DEQ would submit the rules to EPA to update Oregon’s state implementation plan.  DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves changes to Oregon’s state implementation plan. |
| ACDP Greenhouse Gas Reporting Fees | |
| What problem is DEQ trying to solve? | LRAPA has authority by reference to collect fees for Title V sources under OAR division 220 but lacks authority to require fees for ACDP sources triggering the GHG reporting requirement  Global warming poses a serious threat to Oregon’s economy, environment and public health. Greenhouse gas reporting is crucial for Oregon to track and evaluate its greenhouse gas emissions. The Environmental Quality Commission adopted rules in 2008 that require certain sources to report greenhouse gas emissions by way of OAR Division 215 – Greenhouse Gas Reporting Requirements. By reference in Division 215, LRAPA was given authority to implement the greenhouse gas reporting requirements. In 2009, the Legislature passed Senate Bill 103, authorizing the fees in a temporary rulemaking adopted by the EQC in December of 2009 followed by a permanent rulemaking scheduled for October 21, 2010 adoption. The GHG reporting fees apply to both ACDP and Title V sources that emit greater than 2,500 metric tons of CO2-equivalent based emissions. LRAPA has adopted the Title V fees by reference (Division 220 – Oregon Title V Permit Fees) and no rule change is necessary to allow LRAPA to invoice Title V sources for the greenhouse gas reporting fees. For ACDP sources, however, LRAPA needs to establish the corresponding fees from DEQ’s OAR Division 216, Table 2 into LRAPA Title 37, Table 2.  LRAPA needs the ACDP greenhouse gas reporting fees in order to cover the costs associated with preparation of the reporting database and providing adequate assistance to affected sources. DEQ’s greenhouse gas reporting advisory committee recommended the fee structure. The rule amendments would establish fees for ACDP sources that are fifteen percent (15%) of the permit fees currently paid by affected sources; however, LRAPA will cap the fees at $4,500 for any individual source. |
| How would the proposed rule solve the problem? | The proposed rules affect existing greenhouse gas reporters and establish fees for sources subject to the reporting rules that hold ACDPs with LRAPA. In December 2009, EQC adopted a temporary rulemaking to establish fees. The proposed rules would establish the fees through regular, permanent rulemaking. LRAPA needs fee revenue to cover costs of developing and implementing the greenhouse gas reporting program. Annual revenue from the fees would be used only for program expenses and the proposed fee levels are expected to cover anticipated program costs through 2015. |
| How will DEQ know the problem has been solved? | Upon EQC adoption, DEQ would submit the rules to EPA to update Oregon’s state implementation plan.  DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves changes to Oregon’s state implementation plan. |
| Other Corrections | |
| What problem is DEQ trying to solve? | The LRAPA rules contain incorrect rule citations and inaccurate definitions to certain terms. The final main group of changes includes corrections to rule citations and additions and changes to the definitions of terms. |
| How would the proposed rule solve the problem? | Correct rule citations and definitions of terms. |
| How will DEQ know the problem has been solved? | Upon EQC adoption, DEQ would submit the rules to EPA to update Oregon’s state implementation plan.  DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves changes to Oregon’s state implementation plan. |

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 Program Operations section

Chapter 340 action

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| Amend | 340-200-0040 |

Statutory authority

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

Other authority

LRAPA Title 13 and Title 14

Statute implemented Legislation

ORS 468A.020, 468A.025 Senate Bill 103, 2009

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

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| **Document title** | **Document location** |
| Agenda item D, Rule adoption: New Source Review/particulate matter and greenhouse gas permitting requirements and other permitting updates April 21-22, 2011, EQC meeting | <http://www.deq.state.or.us/about/eqc/agendas/attachments/2011apr/D-GHG.pdf> |
| Agenda item Q, Rule Adoption: Oregon greenhouse gas reporting rules October 20-22, 2010 EQC meeting | <http://www.deq.state.or.us/about/eqc/agendas/2010/2010octEQCAgenda.htm#Q-GHG> |
| Agenda item P, rule adoption: Adoption of federal air quality regulations December 10-11, 2009 EQC meeting | <http://www.deq.state.or.us/about/eqc/agendas/attachments/2009dec/P-NESHAP.pdf> |
| LRAPA Board Agenda Item 5, Possible Adoption of PM2.5 and Greenhouse Gas (GHG) Air Contaminant Discharge Permitting (ACDP), ACDP Permitting for Area Sources of Hazardous Air Pollutants (HAPs), and GHG Reporting Fee Requirements, April 5, 2011 LRAPA board meeting | [insert link] |
| Federal Register / Vol. 75, No. 28 6827/ Thursday, February 11, 2010/Implementation of theNew Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5); Notice of Proposed Rulemaking To Repeal Grandfathering Provision and End the PM10 Surrogate Policy | <http://www.gpo.gov/fdsys/pkg/FR-2010-02-11/pdf/2010-2983.pdf> |
| Federal Register/ Docket ID No. EPA-HQ-OAR-2006-0605 / Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM2.5) – Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration/Final Rule (SMC) | <http://www.epa.gov/nsr/documents/20100929finalrule.pdf> |
| Interim Implementation for the New Source Review Requirements for PM2.5 (John S. Seitz, EPA, October 23, 1997) | <http://www.epa.gov/ttn/nsr/gen/pm25.html> |
| Federal Register/ Vol. 75, No. 28 / Thursday, June 3, 2010 / Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule | <http://www.gpo.gov/fdsys/pkg/FR-2010-06-03/pdf/2010-11974.pdf> |
| Federal Register / Vol. 75, No. 170 / Thursday, September 2, 2010 /Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan | <http://www.gpo.gov/fdsys/pkg/FR-2010-09-02/pdf/2010-21706.pdf> |
| Federal Register/Vol. 75, No. 170/Thursday, September 2, 2010/ Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call | <http://www.gpo.gov/fdsys/pkg/FR-2010-09-02/pdf/2010-21701.pdf> |
| House Bill 2952 (2009) | <http://www.leg.state.or.us/09reg/measpdf/hb2900.dir/hb2952.en.pdf> |
| 40 CFR Part 63 – National Emission Standards for Hazardous Air Pollutants (NEHSAPs) | <http://www.ecfr.gov/cgi-bin/text-idx?sid=734ac699e0353a6193bdc1efe55460a9&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl> |

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| Fee Analysis |

1. **GHG Reporting Fees for ACDPs**: In 2012, the greenhouse gas reporting fees for ACDP sources affected 12 sources with Standard ACDPs and five (5) sources with General ACDPs. The fee for a source holding a Standard ACDP was $1,287 and the fee for a source holding an affected General ACDP was $314 (i.e., 15% of their annual permit fee under LRAPA Title 37, Table 2). The total fees collected by LRAPA for ACDPs requiring reporting GHGs were $17,013 for the 2012 calendar year. The fees assessed by LRAPA by year are as follows:

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| Calendar Year | Amount ($) Assessed for LRAPA sources holding ACDPs that were required to report GHGs |
| 2009\* | $14,136 |
| 2010 | $16,194 |
| 2011 | $17,841 |
| 2012 | $17,013 |

\*LRAPA did not have the authority to charge fees for ACDP sources required to report GHGs until April 2011. LRAPA began collecting GHG reporting fees for ACDP sources in 2011 that applied to the 2010 calendar year GHG emissions.

1. **Other ACDP Permitting (Adoption of General ACDPs and General ACDP attachments for sources subject to area source NESHAPs):** Fees for the LRAPA adopted rules that included permit requirements for area sources subject to NESHAPs for General ACDPs and General ACDP attachments as follows (actual fees paid in 2012):

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| --- | --- | --- | --- |
| Permit Category | ACD Permit Type | No. of Sources | Total Annual Fees (2012) |
| Motor Vehicle and Mobile Equipment Surface Coating Operations subject to an Area Source NESHAP (6H) | Registration | 2 | $480 |
| Basic (< 20 gallons/yr) | 2 | $786 |
| General (>20 gallons/yr) | 18 | $15,680 |
| Paint Stripping and Miscellaneous Surface Coating Operations subject to an Area Source NESHAP (6H) | General | 0 | -- |
| Metal Fabrication and Finishing Operations subject to an Area Source NESHAP (6X) | General | 6 | $8,478 |
| General Attachment | 0 | -- |
| Paints and Allied Products Manufacturing subject to an Area Source NESHAP (7C) | General | 0 | -- |
| Plating and Polishing Operations subject to an Area Source NESHAP (6W) | General | 2 | $1,568 |
| General Attachment | 2 | $232 |
| Aluminum, Copper and Other Nonferrous Foundries subject to an Area Source NESHAP (6Z) | General | 0 | -- |
| Ferroalloy Production Facilities subject to an Area Source NESHAP (6Y) | General | 0 | -- |
| Perchloroethylene Dry Cleaning Operations subject to an Area Source NEHAP (M) | Registration | 3 | $540 |
| TOTAL | | | $27,764 |

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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) |

The statement of fiscal and economic impact is identified by way of each major component of this LRAPA rule package titled “PM2.5 and GHG Rule Changes”. The three (3) major components of the rule package are identified in the following table with the corresponding DEQ rule item.

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| LRAPA “PM2.5 and GHG Rule Changes” Rule Package – Contains three (3) major components: | Corresponding DEQ Rulemaking: |
| 1. PM2.5 and Greenhouse Gas (GHG) New Source Review/Prevention of Significant Deterioration (NSR/PSD) permitting thresholds | Agenda item D, Rule adoption: New Source Review/particulate matter and greenhouse gas permitting requirements and other permitting updates April 21-22, 2011, EQC meeting |
| 1. Permitting Rule Updates: 2. Area Source NESHAPs 3. Area Source NESHAP Permitting 4. General ACDP Attachments 5. Registration 6. Other Federal Air Quality Regulations | Agenda item P, rule adoption: Adoption of federal air quality regulations December 10-11, 2009 EQC meeting |
| 1. Greenhouse Gas Reporting Fees for ACDP Sources | Agenda item Q, Rule Adoption: Oregon greenhouse gas reporting rules October 20-22, 2010 EQC meeting |

1. **PM2.5 and Greenhouse Gas (GHG) New Source Review/Prevention of Significant Deterioration (NSR/PSD) permitting thresholds:**

Fiscal and Economic Impact

The proposed rules could have a fiscal and economic impact on approximately 320 permitted sources in addition to future applicants.

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| Business Type | Business Size | Permit Type | Number |
| City/County Govt | Large | ACDP | 2 |
| City/County Govt | Large | Title V | 1 |
| State Government | Large | ACDP | 2 |
| State Government | Large | Title V | 0 |
| Federal Government | Large | ACDP | 0 |
| Federal Government | Large | Title V | 0 |
| Industrial Business | Large | ACDP | 205 |
| Industrial Business | Large | Title V | 18 |
| **Estimated Number of Large Businesses Potentially Impacted** | | | 220 |

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| --- | --- | --- | --- |
| Business Type | Business Size | Permit Type | Number |
| Industrial Business | Small | ACDP | 100 |
| Industrial Business | Small | Title V | 0 |
| **Estimated Number of Small Businesses Potentially Impacted** | | | 100 |

* 19 facilities in Lane County that are permitted under the Oregon Title V Permit Program
* 301 industrial facilities in Lane County that are permitted under LRAPA’s Air Contaminant Discharge Permit (ACDP) program

PM2.5 New Source Review/Prevention of Significant Deterioration: DEQ anticipates that there will be a negative fiscal and economic impact on about 96 small and large businesses subject to existing permitting requirements. These businesses will be required to make an initial estimate of PM2.5 emissions at the time of permit renewal or modification so LRAPA can incorporate emission levels into permits. LRAPA will develop guidance to help minimize the impact. LRAPA’s other 224 permitted sources are on simpler permits that do not require calculation of emissions. The fiscal and economic impact is primarily due to federal requirements, although a portion of the impact is caused by incorporating the federal requirements into LRAPA’s unique NSR/PSD program. Additionally, NSR and PSD is a case-by-case analysis, and because the type of pollution controls and computer modeling varies for each case, LRAPA lacks available information to accurately estimate those costs. However, LRAPA acknowledges that the cost impact of NSR and PSD is typically significant. The application fee alone for this type of permit is currently $46,922.

Greenhouse Gas New Source Review/Prevention of Significant Deterioration: DEQ anticipates that there will be a negative fiscal and economic impact on about 96 small and large businesses subject to existing permitting requirements. Businesses will be required to estimate GHG emissions for their permit renewals or modifications, using a process similar to their GHG reporting requirements. LRAPA will use DEQ’s develop guidance to help minimize the impact. The fiscal and economic impact is primarily due to federal requirements, although a portion of the impact is caused by incorporating the federal requirements into LRAPA’s unique PSD program.

Small Scale Renewable Energy Sources: DEQ anticipates that there will be a positive economic impact for one or more small scale renewable energy sources that may benefit from the ability to obtain offsets from anywhere within a nonattainment area. This benefit results from House Bill 2952 (2009), and is unchanged by this rulemaking.

1. **Permitting Rule Updates**: DEQ anticipates that there will be no negative fiscal and economic impacts as a result of adopting the new area source NESHAPs DEQ anticipates a negative fiscal and economic impact to about 80 new and existing sources subject to area source NESHAP permitting or registration. Additionally, LRAPA anticipates a negative fiscal and economic impact to about 14 small and large businesses as a result of adopting the GHG reporting fees for ACDP sources.

1. Area Source NESHAPs: This rulemaking proposes to adopt by reference new NESHAPs applicable to non-major or area sources including: aluminum, copper, and other nonferrous foundries; chemical manufacturing; ferroalloy production; metal fabrication and finishing; paint stripping and miscellaneous surface coating operations; and plating and polishing operations.

LRAPA anticipates that there will be no negative fiscal and economic impacts as a result of adopting the new area source NESHAPs because any negative fiscal and economic impacts occurred when EPA adopted the rules, and because the rules applied in Lane County upon EPA’s adoption. Therefore, if the EQC adopts the proposed rules listed above, which are substantively identical to their federal counterparts, there will be no substantive change to the requirements already applicable in Lane County today. EPA has evaluated the fiscal and economic effects of their rules and lists those effects in the preambles to their regulations.

1. Area Source NESHAP Permitting: The proposed adoption of new area source NESHAPs would trigger a requirement that affected businesses obtain a Standard ACDP and pay permitting fees. LRAPA anticipates that permitting fees would have negative fiscal and economic impact on affected businesses. To mitigate the fiscal and economic impact on affected businesses, many of which are small businesses, this rulemaking proposes to add the new area source NESHAPs to the list of business categories eligible to obtain a Simple or General ACDP. General ACDP fees are significantly less than Standard ACDP fees. In addition, this rulemaking proposes to allow businesses in certain categories to register with LRAPA in lieu of obtaining a General ACDP. Registered businesses would be required to pay registration fees that are equal to or less than the corresponding General ACDP fees.
2. General ACDP Attachments: To simplify cases where a business is subject to multiple area source NESHAPs and/or multiple General ACDPs, this rulemaking would allow a business to be assigned to one General ACDP and one or more General ACDP Attachments. Affected businesses would be charged the full annual fee for one General ACDP and a reduced annual fee for each General ACDP Attachment.

General ACDP Attachments would benefit businesses required to obtain a Simple ACDP because there are no General ACDPs that contain all requirements applicable to that business. General ACDP Attachments could also negatively impact small businesses in cases where LRAPA chooses to use a General ACDP Attachment in lieu of adding a regulation to a General ACDP. However, the General ACDP Attachment would likely cost less than having to get multiple General ACDPs or a Simple ACDP.

1. Registration: This rulemaking would allow LRAPA to use registration as an alternative to permitting for businesses that participate in an environmental certification program. Registered businesses would be required to pay an annual registration fee that is equal to or less than the corresponding annual permitting fee. Registration would ensure that businesses comply with the new area source NESHAPs and encourage them to adopt sustainable practices to achieve greater environmental benefits. The proposed registration fee would pay LRAPA’s cost for developing and implementing the registration program and ensuring compliance with the applicable standards. LRAPA anticipates that registration will have a positive fiscal and economic impact because the registration fee will be equal to or less than the corresponding permitting fee.
2. Other Federal Air Quality Regulations: This rulemaking proposes to match changes in federal law by updating LRAPA’s adoption by reference of federal NESHAPs and NSPSs. LRAPA anticipates that there will be no negative fiscal and economic impacts as a result of these proposed rules because any negative fiscal and economic impacts occurred when the EPA adopted the rules, and because the rules applied in Lane County upon EPA’s adoption. Therefore, if the EQC adopts the proposed rules listed above, which are substantively identical to their DEQ and federal counterparts, there will be no substantive change to the requirements already applicable in Lane County today. EPA has evaluated the fiscal and economic effects of their rules and lists those effects in the preambles to their regulations. A list of the federal NESHAP and NSPS rules can be found in Attachment A, and the EPA regulations can be found by going to EPA’s website <http://www.epa.gov/ttn/atw/eparules.html>.
3. Greenhouse Gas Reporting Fees for ACDP Sources: DEQ estimates the proposed fees would have fiscal and economic impacts on about 17 sources holding ACDPs subject to the existing reporting rules, which are required to obtain permits pursuant to ORS 468A.040, ORS 468A.155 or ORS 468A.310. This includes sources such as asphalt plants and sawmills with wood-fired boilers. This does not include sources that hold operating permits with LRAPA under Title V of the federal Clean Air Act, such as pulp and paper mills and large sawmills; LRAPA has authority by reference to charge greenhouse gas reporting fees for those sources under OAR 340 division 220, and no rule changes are proposed for Title V sources.

The proposed fees are fifteen percent of the permit fees currently paid by affected sources; however, LRAPA would cap the proposed fees at $4,500 for any individual source. The table below describes the estimated numbers of sources by permit type and the proposed greenhouse gas fees. DEQ used actual sources affected under the rule for the 2012 calendar year. Sources holding air contaminant discharge permits currently pay annual fees by permit type.

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| ACDP Type | Number of Sources Required to Report | Greenhouse gas fee for 2012 emissions |
| General | 5 | $314 |
| Standard | 12 | $1,287 |
| TOTAL | 17 | $17,014 |

Statement of Cost of Compliance

1. PM2.5 and Greenhouse Gas (GHG) New Source Review/Prevention of Significant Deterioration (NSR/PSD) permitting thresholds:

Impacts on general public

PM2.5 New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V: DEQ does not anticipate any direct, negative fiscal or economic impacts from the proposed rules on the general public. However, indirect fiscal or economic impacts to the public may occur through increased prices for services or products as a result of costs associated with additional control or process equipment that may be required if a source triggers NSR/PSD. DEQ expects any such price increases to be small and lacks available information upon which it could accurately estimate potential increases.

PM2.5 New Source Review/Prevention of Significant Deterioration: EPA adopted standards for PM2.5 based on their link to serious health problems ranging from increased symptoms, hospital admissions and emergency room visits to premature death for people with heart and lung disease. The proposed rules could create positive, direct economic benefits by reducing health care costs because the amount of PM2.5 emissions allowed from new or expanding large businesses will be reduced. However, DEQ is unable to estimate those impacts for Lane County because it lacks available information to project the complicated connection between reductions in those pollutants and the costs of health care.

Greenhouse Gas Prevention of Significant Deterioration: Global warming may create public health problems that can have negative economic impacts. The proposed rules could create positive, direct economic benefits by reducing health care costs because the amount of greenhouse gas emissions allowed from new or expanding large businesses will be reduced. However, DEQ is unable to estimate those impacts for DEQ because it lacks available information to project the complicated connection between reductions in those pollutants and the costs of health care.

Small Scale Renewable Energy Sources: DEQ anticipates that there will be no fiscal and economic impact on the general public as a result of the proposed rules.

Impact on other government entities other than DEQ

1. Local governments:

PM2.5 New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V: Currently three (3) county and local government agencies are subject to air permitting regulations in Lane County. These permittees would be subject to the PM2.5 and GHG portions of the proposed rules. Additionally, proposed new facilities that would be large sources of PM2.5 and GHG pollution would also be subject to the rules, but DEQ lacks available information to project what new facilities may be proposed in the future.

DEQ anticipates that there will be a negative fiscal and economic impact on these sources because they will be required to make an initial estimate of PM2.5 and GHG emissions at time of permit renewal or modification so LRAPA can incorporate emission levels into permits. These government agencies also have the option of assuming that PM2.5 emissions are the same as PM10 emissions (already included in their permits), eliminating any additional costs for reporting, recordkeeping or other administrative activities. GHG emissions can be estimated using a process similar to their GHG reporting requirements. The cost of these requirements varies by each permittee and LRAPA lacks available information sufficient to accurately estimate these costs.

DEQ anticipates that there will be a negative fiscal and economic impact on local government agencies if they build new sources and or modify existing sources that would trigger New Source Review or Prevention of Significant Deterioration. The costs would be similar to large businesses as mentioned above.

Small Scale Renewable Energy Sources: DEQ anticipates that there will be no fiscal and economic impact as a result of the proposed rules.

1. State agencies

PM2.5 New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V: Currently there are two (2) state and no (0) federal government agencies subject to air permitting regulations in Lane County. These permittees would be subject to the PM2.5 and GHG portions of the proposed rules. Proposed new facilities that would be large sources of PM2.5 and GHG pollution would also be subject to the rules, but LRAPA lacks available information to project what new facilities may be proposed in the future.

DEQ anticipates that there will be a negative fiscal and economic impact on these sources because they will be required to make an initial estimate of PM2.5 and GHG emissions at time of permit renewal or modification so LRAPA can incorporate emission levels into permits. State and federal government agencies have the same options available to them as mentioned above for local government agencies. The cost of these requirements varies by each permittee and LRAPA lacks available information sufficient to accurately estimate these costs.

DEQ anticipates that there will be a negative fiscal and economic impact on state agencies other than DEQ if they build new sources and or modify existing sources that would trigger New Source Review or Prevention of Significant Deterioration. The costs would be similar to large businesses as mentioned above.

State and federal government agencies would incur the same fiscal and economic impacts as local government agencies mentioned above.

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

PM2.5 New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V: Workload for DEQ will not increase as a result of LRAPA incorporating PM2.5 and greenhouse gases into permits. DEQ does not review nor coordinate in the issuance of LRAPA permits.

Small Scale Renewable Energy Sources: Workload for DEQ will not increase as a result of LRAPA permitting one or more small scale renewable energy sources that may be affected by the proposed rules.

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

Currently 19 large businesses in Lane County are required to hold federal Title V Operating Permits. There are also 101 large businesses that hold LRAPA Air Contaminant Discharge Permits. These permittees would be subject to the PM2.5 and GHG portions of the proposed rules. Additionally, proposed new facilities in Lane County that would be large sources of PM2.5 and GHG pollution would also be subject to the rules, but DEQ lacks available information to project what new facilities may be proposed in the future.

PM2.5 New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V: DEQ anticipates that there will be a negative fiscal and economic impact on these sources because they will be required to make an initial estimate of PM2.5 and GHG emissions at time of permit renewal or modification so LRAPA can incorporate emission levels into permits. These businesses also have the option of assuming that PM2.5 emissions are the same as PM10 emissions (already included in their permits), eliminating any additional costs for reporting, recordkeeping or other administrative activities. GHG emissions can be estimated using a process similar to their GHG reporting requirements. The cost of these requirements varies by each business and LRAPA lacks available information sufficient to accurately estimate these costs.

DEQ anticipates that there will be a negative fiscal and economic impact on new sources and existing sources if they make a modification to their facility that would trigger New Source Review or Prevention of Significant Deterioration. Additional costs could be incurred if the business had to add control equipment to meet control technology requirements. Businesses are also required to perform computer modeling to ensure that the health standards are met and air quality in wilderness areas is not degraded. Most of the costs are the result of federal requirements and do not change as a result of adding PM2.5 and GHGs to the list of regulated pollutants. Additionally, NSR and PSD is a case-by-case analysis, and because the type of pollution controls and computer modeling varies for each case, DEQ lacks available information to accurately estimate those costs. However, DEQ acknowledges that the cost impact of NSR/PSD is typically significant. The application fee alone for this type of permit in Lane County is currently $46,922.

Small Scale Renewable Energy Sources: DEQ anticipates that there will be a positive economic impact for one or more small scale renewable energy sources because offsets are not available for sources that are located in remote parts of the nonattainment area. Getting offsets elsewhere in the nonattainment area also benefits air quality since the offsets will come from near where the highest ambient concentrations are located.

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

PM2.5 New Source Review/Prevention of Significant Deterioration, GHG PSD and GHG Title V: DEQ anticipates that there will be a negative fiscal and economic impact on approximately 100 small businesses because they will be required to make an initial estimate of PM2.5 and GHG emissions at time of permit renewal or modification so LRAPA can incorporate emission levels into permits. Additionally, proposed new facilities that would be large sources of PM2.5 and GHG pollution would also be subject to the rules, but LRAPA lacks available information to project what new facilities may be proposed in the future. These businesses have the option of assuming that PM2.5 emissions are the same as PM10 emissions (already included in their permits), eliminating any additional costs for reporting, recordkeeping or other administrative activities. GHG emissions can be estimated using a process similar to their GHG reporting requirements. The cost of these requirements varies by each business and DEQ lacks available information sufficient to accurately estimate these costs.

DEQ anticipates that there will be a negative fiscal and economic impact on new sources and existing sources if they make a modification to their facility that would trigger New Source Review or Prevention of Significant Deterioration. Additional costs could be incurred if the business had to add control equipment to meet control technology requirements. Sources are also required to perform computer modeling for PM2.5 to ensure that the health standards are met and air quality in wilderness areas is not degraded. Most of the costs are the result of federal requirements and do not change as a result of adding PM2.5 and GHGs to the list of regulated pollutants in Lane County. Additionally, NSR and PSD is a case-by-case analysis, and because the type of pollution controls and computer modeling varies for each case, LRAPA lacks available information to accurately estimate those costs. However, DEQ acknowledges that the cost impact of NSR and PSD is typically significant. The application fee alone for this type of permit in Lane County is currently $46,922.

Small Scale Renewable Energy Sources: DEQ anticipates that there will be no fiscal and economic impact as a result of the proposed rules.

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| a) Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule. | Currently there are no (0) small businesses in Lane County that are required to hold Title V operating permits. Of the 301 industrial facilities holding Air Contaminant Discharge Permits, 100 of them are small businesses. Additionally, proposed new facilities that would be large sources of PM2.5 and GHG pollution would also be subject to the rules, but LRAPA lacks available information to project what new facilities may be proposed in the future.  There are several types of businesses and industries with small businesses that will be affected by the proposed rules. These may include asphalt manufacturing; chemical manufacturing; coffee roasting; commercial bakeries; commercial boilers; crematories; educational institutions; electric power generation; furniture manufacturing; food processing; hospitals; natural gas and oil production and processing; pipe coaters; printers; sand, rock and gravel operations; seed and grain companies; synthetic resin manufacturing; and wood products manufacturing. |
| b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule. | Additional costs for reporting, recordkeeping or other administrative activities are expected if the amendments are adopted. These small businesses will be required to make an initial estimate of PM2.5 and GHG emissions. Businesses have the option of assuming that PM2.5 emissions are the same as PM10 emissions (already included in their permits), eliminating any additional costs for reporting, recordkeeping or other administrative activities. |
| c) Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule. | Additional costs for equipment, supplies, labor or administration are expected if the amendments are adopted and a small business triggers NSR/PSD through facility modification or new construction.  Most of the costs are the result of federal requirements and do not change as a result of adding PM2.5 and GHGs to the list of regulated pollutants in Lane County. Such cost could include labor for employees or consultants to estimate emissions and prepare permit applications and labor for consultants to test stack emissions. Additional costs could be incurred if the business had to add control equipment to meet control technology requirements. Sources are also required to perform computer modeling for PM2.5 emissions to ensure that the health standards are met and air quality in wilderness areas is not degraded. Additionally, NSR and PSD is a case-by-case analysis, and because the type of pollution controls and computer modeling varies for each case, LRAPA lacks available information to accurately estimate those costs. However, LRAPA acknowledges that the impact of NSR and PSD is typically significant. The application fee alone for this type of permit in Lane County is currently $46,922. |
| d) Describe how LRAPA involved small businesses in developing this proposed rule. | Small businesses were invited to attend stakeholder meetings held to discuss proposed rule changes. Stakeholder meetings allowed input on the proposed rules and also comment on the August 23, 2010 temporary rules. LRAPA sent an announcement of the meetings to all permitted facilities and people who expressed interest in air quality rulemakings. LRAPA provided two weeks to comment on a draft version of the fiscal and economic impact statement. |

Documents relied on for fiscal and economic impact

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| **Document title** | **Document location** |
| Agenda item D, Rule adoption: New Source Review/particulate matter and greenhouse gas permitting requirements and other permitting updates April 21-22, 2011, EQC meeting | <http://www.deq.state.or.us/about/eqc/agendas/attachments/2011apr/D-GHG.pdf> |
| LRAPA Board Agenda Item 5, Possible Adoption of PM2.5 and Greenhouse Gas (GHG) Air Contaminant Discharge Permitting (ACDP), ACDP Permitting for Area Sources of Hazardous Air Pollutants (HAPs), and GHG Reporting Fee Requirements, April 5, 2011 LRAPA board meeting | [insert link] |
| Federal Register / Vol. 75, No. 28 6827/ Thursday, February 11, 2010/Implementation of theNew Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5); Notice of Proposed Rulemaking To Repeal Grandfathering Provision and End the PM10 Surrogate Policy | <http://www.gpo.gov/fdsys/pkg/FR-2010-02-11/pdf/2010-2983.pdf> |
| Federal Register/ Docket ID No. EPA-HQ-OAR-2006-0605 / Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM2.5) – Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration/Final Rule (SMC) | <http://www.epa.gov/nsr/documents/20100929finalrule.pdf> |
| Interim Implementation for the New Source Review Requirements for PM2.5 (John S. Seitz, EPA, October 23, 1997) | <http://www.epa.gov/ttn/nsr/gen/pm25.html> |
| Federal Register/ Vol. 75, No. 28 / Thursday, June 3, 2010 / Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule | <http://www.gpo.gov/fdsys/pkg/FR-2010-06-03/pdf/2010-11974.pdf> |
| Federal Register / Vol. 75, No. 170 / Thursday, September 2, 2010 /Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan | <http://www.gpo.gov/fdsys/pkg/FR-2010-09-02/pdf/2010-21706.pdf> |
| Federal Register/Vol. 75, No. 170/Thursday, September 2, 2010/ Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call | <http://www.gpo.gov/fdsys/pkg/FR-2010-09-02/pdf/2010-21701.pdf> |

Advisory committee

LRAPA did not appoint an advisory committee but held several meetings with stakeholders to discuss topics of interest to them. Stakeholder meetings allowed input on the proposed rules and also comment on the August 23, 2010 temporary rules. LRAPA sent an announcement of the meetings to all permitted facilities and people who expressed interest in air quality rulemakings.

Housing cost

To comply with [ORS 183.534](http://www.leg.state.or.us/ors/183.html), LRAPA determined the proposed rules may have an 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 possible impact appears to be minimal. LRAPA cannot quantify the impact at this time because the information available to it does not indicate whether the costs would be passed on to consumers and any such estimate would be speculative.

1. Permitting Rule Updates:

Impacts on general public

Direct Impacts: LRAPA does not anticipate any direct fiscal or economic impacts from this proposed rulemaking on the general public

Indirect Impacts:

* Area Source NESHAPs: The proposed adoption of the new federal area source NESHAPs would not indirectly impact the general public because any negative fiscal and economic impacts occurred when the EPA adopted the rules, and because the rules applied in Oregon upon EPA’s adoption.
* Area Source NESHAP Permitting. The requirement that sources affected by a new federal area source NESHAP obtain an ACDP permit could indirectly impact the general public if the associated permitting fees are passed on in the form of higher prices for goods and services.
* General ACDP Attachments: Allowing a business to be assigned to one General ACDP and one or more General ACDP Attachments would positively impact the general public because it would help some businesses avoid the requirement to obtain a more costly Simple ACDP. General ACDP Attachments could also negatively impact the general public in cases where DEQ chooses to use a General ACDP Attachment in lieu of adding a regulation to a General ACDP. However, the General ACDP Attachment would likely cost less than having to get multiple General ACDPs or a Simple ACDP.
* Registration: Registration could positively impact the general public because registration applies to businesses that would otherwise be required to obtain a permit and the registration fee will be equal to or less than the corresponding permitting fee.

Impact on other government entities other than DEQ

1. Local governments:

The fiscal and economic impacts on local government are expected to be the same as those estimated for small businesses.

1. State agencies:

The fiscal and economic impacts on State Agencies other than DEQ are expected to be the same as those estimated for small businesses.

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

There will be no impact on DEQ for the implementation of the LRAPA permitting rules in Lane County.

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

The fiscal and economic impacts on large businesses are expected to be the same as those estimated for small businesses.

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

Direct Impacts:

* Area Source NESHAPs: The proposed adoption of the new federal area source NESHAPs would not directly impact small businesses because any negative fiscal and economic impacts occurred when the EPA adopted the rules, and because the rules applied in Lane County upon EPA’s adoption.
* Area Source NESHAP Permitting: The proposed adoption of new area source NESHAPs would trigger a requirement that affected businesses obtain a Standard ACDP and pay permitting fees. Standard ACDP permitting fees would have a negative fiscal and economic impact on affected businesses, many of which are small businesses. To mitigate this impact, this rulemaking proposes to add businesses affected by the new area source NESHAPs to the list of businesses that are eligible to obtain a Simple or General ACDP in lieu of a Standard ACDP. General ACDPs in Lane County currently cost between $134/year to $2,092/year, Simple ACDPs cost between $2,145/year and $4,290/year, and Standard ACDPs cost $8,580/year. Adding these businesses to the list of businesses that are eligible to obtain a Simple or General ACDP would save affected businesses up to $8,408/year (98%). In addition, this rulemaking proposes to allow businesses in certain categories to register with LRAPA in lieu of obtaining a General ACDP. Registered businesses would be required to pay registration fees that are equal to or less than the corresponding General ACDP fees. Why the 98%? rw
* General ACDP Attachments: Allowing a business to be assigned to one General ACDP and one or more General ACDP Attachments would positively impact small businesses because it would allow some businesses to avoid the requirement to obtain multiple general permits or a more costly Simple ACDP. General ACDP Attachments could also negatively impact small businesses in cases where LRAPA chooses to use a General ACDP Attachment in lieu of adding a regulation to a General ACDP. However, the General ACDP Attachment would likely cost less than having to get multiple General ACDPs or a Simple ACDP.
* Registration: Registration would positively impact small businesses because registration applies to businesses that would otherwise be required to obtain a permit and the registration fee will be equal to of less than the corresponding permitting fee.

Indirect Impacts:

* Area Source NESHAP Permitting: The requirement that sources affected by a new federal area source NESHAP obtain an ACDP permit could indirectly impact small businesses if the associated permitting fees are passed on in the form of higher prices for goods and services.

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| --- | --- |
| a) Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule. | Area Source NESHAP Permitting  LRAPA estimates 53 small businesses in Lane County are affected by the new area source NESHAPs and/or the requirement to have a permit. The 53 small businesses are in the following industries: paint stripping and miscellaneous surface coating (36); metal fabrication (13); plating and polishing (2); ferroalloy production (0); aluminum, copper, and other nonferrous foundries (0); chemical manufacturing (0); and dry cleaners (2). |
| b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule. | The adoption by reference of the new area source NESHAPs do not add any new reporting, recordkeeping and other administrative activities other than those already required by the new area source NESHAPs. The requirement that businesses affected by the new NESHAPs obtain a permit may increase the administrative activities or costs of professional services on small businesses. To mitigate the impact, this rulemaking proposes to allow businesses to register with LRAPA in lieu of obtaining a permit. |
| c) Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule. | The adoption by reference of the new area source NESHAPs would not require small businesses to add any equipment, supplies, labor or administration because the NESHAPs applied in Lane County upon EPA’s adoption. The requirement that businesses affected by the new area source NESHAPs obtain a permit may require small businesses to add equipment, supplies, labor or administration. To mitigate the burden on small businesses, this rulemaking proposes to allow businesses to register with LRAPA in lieu of obtaining a permit. |
| d) Describe how LRAPA involved small businesses in developing this proposed rule. | LRAPA did not hold an official advisory committee for this rulemaking because the rulemaking would primarily adopt federal regulations by reference. However, LRAPA did meet with various groups representing auto body shops, dry cleaners, and other small businesses to discuss LRAPA’s implementation strategy for the new area source NESHAPs. LRAPA will also continue to meet with impacted business associations such as the Northwest Automotive Trades Association and the Oregon Collision Repair Specialists Association to discuss LRAPA’s proposed implementation of the NESHAP. LRAPA also held information sessions with stakeholders to discuss the new area source NESHAPs and LRAPA’s rulemaking. |

Documents relied on for fiscal and economic impact

|  |  |
| --- | --- |
| **Document title** | **Document location** |
| Agenda item P, rule adoption: Adoption of federal air quality regulations December 10-11, 2009 EQC meeting | <http://www.deq.state.or.us/about/eqc/agendas/attachments/2009dec/P-NESHAP.pdf> |
| LRAPA Board Agenda Item 5, Possible Adoption of PM2.5 and Greenhouse Gas (GHG) Air Contaminant Discharge Permitting (ACDP), ACDP Permitting for Area Sources of Hazardous Air Pollutants (HAPs), and GHG Reporting Fee Requirements, April 5, 2011 LRAPA board meeting | [insert link] |
| LRAPA relied primarily on the Federal Register, the Code of Federal Regulations, and the Oregon  Revised Statutes, in developing this rulemaking proposal (available upon request). | NA |

Advisory committee

LRAPA did not hold an official advisory committee for this rulemaking because the rulemaking would primarily adopt federal regulations by reference. However, LRAPA did meet with various groups representing auto body shops, dry cleaners, and other small businesses to discuss LRAPA’s implementation strategy for the new area source NESHAPs.

Housing cost

To comply with [ORS 183.534](http://www.leg.state.or.us/ors/183.html), LRAPA determined the proposed rules would have an 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. A negative impact could occur if permitting fees are passed through by permit holders providing products and services for such development and construction. The possible impact appears to be minimal. LRAPA cannot quantify this impact at this time because the available information does not indicate whether the permit fees would be passed on to consumers and any such estimate would be speculative.

1. Greenhouse Gas Reporting Fees for ACDP Sources:

Impacts on general public

DEQ does not anticipate any direct fiscal or economic impacts from the proposed rules on the general public. However, indirect fiscal or economic impacts to the public may occur through increased prices for services or products as a result of costs associated with reporting of greenhouse gas emissions and greenhouse gas reporting fees. DEQ expects any such price increases to be small and lacks available information upon which it could accurately estimate actual potential increases. Global warming may create public health problems that can have negative economic impacts. The proposed rules could create positive economic benefits and improvements in public health and welfare because greenhouse gas reporting will help DEQ understand Oregon’s overall emissions, which will better equip DEQ and EQC to evaluate progress toward state greenhouse gas reduction goals, pursue local policies and actions to reduce emissions, and inform and shape national policies in ways that benefit Oregon residents and businesses.

Impact on other government entities other than DEQ

1. Local governments:

GHG Fees and reporting cessation

The proposed fees and criteria for reporting cessation could have direct fiscal and economic impacts on one district and one local city government that hold air quality permits. The table below describes the sources’ and 2012 annual fees.

|  |  |
| --- | --- |
| Local Government | Annual Greenhouse Gas Fee (2012) |
| Lane County Short Mountain Landfill | $1,626 |
| Emerald People’s Utility District - EPUD | $1,287 |
| Eugene-Springfield Wastewater | $1,287 |

The proposed criteria for reporting cessation could have impacts on an additional three (3) local government sources, primarily solid waste disposal facilities and wastewater treatment facilities. All of these currently hold air quality permits. The costs of compliance on local governments are expected to be the same as those estimated for small businesses. The Eugene Water and Electric Board (EWEB) is a local governmental agency that would not be affected because they no longer hold an ACDP with LRAPA with the shutdown of their steam-providing services in 2012. What’s the purpose of having Eugene-Springfield Wastewater mentioned if they no longer hold and ACDP? rw

1. State agencies:

Fees and reporting cessation

The proposed rules have direct fiscal and economic impacts on one (1) state agency that holds an air quality permit in Lane County. The costs of compliance on state agencies are expected to be the same as those estimated for small businesses. The table below describes the source and 2012 annual fees.

|  |  |
| --- | --- |
| State Agency | Annual Greenhouse Gas Fee (2012) |
| University of Oregon | $1,287 |

The proposed rules could have indirect fiscal and economic impacts on state agencies because costs associated with reporting of greenhouse gas emissions and greenhouse gas reporting fees could be passed through by reporters, resulting in a slight increase in the costs of products or services provided by reporters.

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

There will be no impact on DEQ for assessment of GHG reporting fees in Lane County. OAR division 215 requires businesses in Lane County subject to the reporting requirements to report regardless of LRAPA’s ability to charge fees for ACDP sources that are subject to the reporting requirements.

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

Fees and reporting cessation

The proposed fees would have a direct fiscal and economic impact on approximately 16 large businesses. The overview section of this document describes the proposed fees. The proposed criteria for reporting cessation would have impacts on large businesses that drop below the reporting threshold. The costs of compliance on large businesses are expected to be the same as those estimated for small businesses.

The proposed rules could have indirect fiscal and economic impacts on large businesses because costs associated with reporting of greenhouse gas emissions and greenhouse gas reporting fees could be passed through by reporters, resulting in a slight increase in the costs of products or services provided by reporters.

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

Fees for existing permit holders

One (1) small business would be affected by the proposed fees; Oregon Industrial Lumber is a small business in Lane County that holds a General ACDP for sawmill activities including a wood-fired boiler. The GHG fees for this small business would be $314 for 2012.

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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 one (1) small business that holds a General ACDP for sawmill activities including a wood-fired boiler would be subject to the new reporting requirements and the proposed fees.  Although only businesses that drop below the threshold would experience an impact from the reporting cessation criteria, one (1) small business holding an air quality permit would be subject to the criteria. |
| b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule. | Fees  Businesses subject to the greenhouse gas reporting fee would experience administrative and accounting costs associated with paying fees. LRAPA anticipates these costs would be minimal because LRAPA would collect the proposed fees with the source’s annual permit fees.  Reporting cessation  Businesses would continue to report unless emissions drop below the threshold for three consecutive years. This would result in costs to affected sources to comply with these rules, who otherwise would not continue reporting under the existing rules. Reporting activities include but are  not limited to:   * Emissions data collection and analysis for greenhouse gases, annually; and * Preparation and submittal of completed registration and reporting forms annually.   Since sources already report the data, LRAPA used DEQ estimates that continued reporting may require ½ day (4 hours) per year. The total estimated cost of  continued reporting, assuming an hourly wage of  $50/hour, would be $200 per year for each source.  What source did you use for the $50/hr. figure? rw |
| c) Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule. | Small businesses may encounter additional costs for equipment (such as a computer) and labor for setting up and reporting their greenhouse gas emissions, which will vary by business. Businesses that currently report air quality data to LRAPA or qualify for concurrent reporting or third party reporting may have lesser needs for additional equipment and labor. LRAPA does not have adequate information at this time to estimate the amount of additional equipment and labor (apart from estimates in (b) above) and any such estimate would be speculation. |
| d) Describe how LRAPA involved small businesses in developing this proposed rule. | LRAPA involved businesses in the development of this rulemaking through the DEQ greenhouse gas reporting advisory committee. Several members represent small businesses or organizations that have small business as members or clients. In September 2009, DEQ sent letters to businesses it anticipated might be subject to the proposed fees to describe DEQ’s intent to propose this rulemaking. LRAPA sent similar letters to Lane County businesses it anticipated might be subject to the proposed fees to describe LRAPA’s intent to propose their adopted rules. The letters also described the role of the committee and opportunities to comment and attend committee meetings. LRAPA published information about the proposal on its website and used a subscription delivery service to notify businesses about the committee meetings and rulemaking proposal. This includes over several hundred people subscribed to receive updates on climate change issues and over updates about the rulemaking proposal and committee. |

Documents relied on for fiscal and economic impact

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| **Document title** | **Document location** |
| Agenda item Q, Rule Adoption: Oregon greenhouse gas reporting rules October 20-22, 2010 EQC meeting | <http://www.deq.state.or.us/about/eqc/agendas/2010/2010octEQCAgenda.htm#Q-GHG> |
| LRAPA Board Agenda Item 5, Possible Adoption of PM2.5 and Greenhouse Gas (GHG) Air Contaminant Discharge Permitting (ACDP), ACDP Permitting for Area Sources of Hazardous Air Pollutants (HAPs), and GHG Reporting Fee Requirements, April 5, 2011 LRAPA board meeting | [insert link] |
| OAR division 215, 216 and 220 | <http://www.deq.state.or.us/regulations/rules.htm> |

Advisory committee

DEQ appointed an advisory committee and considered the committee’s recommendations on this fiscal and economic impact statement. In compliance with [ORS 183.333](http://www.leg.state.or.us/ors/183.html), DEQ asked for the committee’s recommendations on:

* Whether the proposed rules would have a fiscal impact,
* The extent of the impact, and
* Whether the proposed rules would have a significant impact on small businesses and complies with [ORS 183.540](http://www.leg.state.or.us/ors/183.html).

DEQ convened the Oregon greenhouse gas reporting advisory committee in 2007 to make recommendations on the initial greenhouse gas reporting rules adopted in 2008; LRAPA representatives (LRAPA Director and/or LRAPA Operations Manager) were invited to participate on the committee and attended meetings to provide input. DEQ reconvened the committee in 2009 to make recommendations on changes proposed by their corresponding GHG reporting rulemaking including reporting fees. The committee included Chair Mark Reeve and 23 members representing various stakeholder interests. The committee met five (5) times from September 2009 through April 2010. The committee made recommendations for updating the reporting program as described in the committee report available upon request. The recommendations are reflected in the proposed rules. The committee reviewed whether the proposed rules will have a fiscal impact, what the extent of impact will be, and whether the rule will have a significant impact on small business. The committee concluded the proposed rules would have a fiscal and economic impact on businesses. The committee felt the extent of the impact is outlined adequately in DEQ’s draft Statement of Need and Fiscal and Economic Impact, which DEQ revised based on committee recommendations. The committee concluded the rules have a significant adverse impact on the small businesses DEQ indicated would be directly affected by draft rules. However, the committee felt that despite any possible adverse impact on small business, DEQ minimized costs as much as possible at this time. The committee did not believe there is a need at this time for additional mitigation steps outlined in ORS 183.540. LRAPA proposes rules that include the considerations of the committee and the adjustments made by DEQ in their corresponding rule making.

Housing cost

To comply with [ORS 183.534](http://www.leg.state.or.us/ors/183.html), LRAPA determined the proposed rules would have an 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 if the fees are passed through by sources providing products and services for such development and construction. The possible impact appears to be minimal. LRAPA cannot quantify the impact at this time because the information available to it does not indicate whether the fees would be passed on to consumers and any such estimate would be speculative.

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| --- |
| **Federal relationship** <http://www.leg.state.or.us/ors/468a.html> |

*"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..."*

The federal relationship is identified by way of each major component of this LRAPA rule package titled “PM2.5 and GHG Rule Changes”. The three (3) major components of the rule package are identified in the following table with the corresponding DEQ rule item.

|  |  |
| --- | --- |
| LRAPA “PM2.5 and GHG Rule Changes” Rule Package – Contains three (3) major components: | Corresponding DEQ Rulemaking: |
| 1. PM2.5 and Greenhouse Gas (GHG) New Source Review/Prevention of Significant Deterioration (NSR/PSD) permitting thresholds | Agenda item D, Rule adoption: New Source Review/particulate matter and greenhouse gas permitting requirements and other permitting updates April 21-22, 2011, EQC meeting |
| 1. Permitting Rule Updates: 2. Area Source NESHAPs 3. Area Source NESHAP Permitting 4. General ACDP Attachments 5. Registration 6. Other Federal Air Quality Regulations | Agenda item P, rule adoption: Adoption of federal air quality regulations December 10-11, 2009 EQC meeting |
| 1. Greenhouse Gas Reporting Fees for ACDP Sources | Agenda item Q, Rule Adoption: Oregon greenhouse gas reporting rules October 20-22, 2010 EQC meeting |

Relationship to federal requirements

1. PM2.5 and Greenhouse Gas (GHG) New Source Review/Prevention of Significant Deterioration (NSR/PSD) permitting thresholds:

LRAPA 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). The proposed rulemaking is different from because it modifies LRAPA’s existing permitting rules which are different than federal rules. LRAPA’s permitting program has been structured in a different way than the federal program since it originated in 1982, but is considered equivalent by the Environmental Protection Agency.

Both programs require preconstruction approval (NSR/PSD) for new major air pollution sources or existing sources making modifications that will increase their emissions above a baseline level by a defined amount known as a “Significant Emission Rate.” The primary difference between LRAPA’s existing rules and the federal rules is how the baseline emission level, or netting basis, is established. The netting basis is the emission level in a defined baseline year, adjusted by any required decreases and approved increases of emissions.

Under LRAPA’s program, the netting basis is based on actual emissions from a set time period, often the year 1977 or 1978, and is adjusted accordingly based on subsequent changes at the facility. If emissions increase above the netting basis by the Significant Emission Rate for a pollutant, the source triggers NSR/PSD.

Under the federal program NSR/PSD is also triggered by an increase over a Significant Emission Rate, however the concept of baseline and netting basis is different. Instead of having a fixed baseline period, the federal program typically requires a review of the highest actual emissions at a source over any two year period in the previous ten years. Following that review, an annual highest emission level is established and that level is used as the baseline for determining if emissions will increase by more than a Significant Emission Rate.

The proposed rule does not create new differences in the major source preconstruction program from the federal program. It makes changes to LRAPA’s rules to maintain equivalency with the federal program. The proposed rule incorporates two new federally regulated pollutants (greenhouse gases and fine particulates) into LRAPA’s existing program which is, and has been different from the federal program since its inception.

Another change is the proposed rule to establish a Significant Impact Level (SIL), used to determine if additional air quality analysis is required during preconstruction approval. EPA’s recently adopted SILs for PM2.5 were developed by scaling the existing PM10 SILs using a PM2.5-to-PM10 National Ambient Air Quality Standard ratio.

|  |  |  |  |
| --- | --- | --- | --- |
| EPA SILs | **Air Quality Area Designation** | | |
| Averaging Time | Class I | Class II | Class III |
| Annual | 0.06 μg/m3 | 0.3 μg/m3 | 0.3 μg/m3 |
| 24-hour | 0.07 μg/m3 | 1.2 μg/m3 | 1.2 μg/m3 |

LRAPA adopted the following SILs for PM2.5 in a temporary rule at the August 23, 2010 board meeting based on the EPA proposed SILs at that time.

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| --- | --- | --- | --- |
| EPA SILs | **Air Quality Area Designation** | | |
| Averaging Time | Class I | Class II | Class III |
| Annual | 0.04 μg/m3 | 0.2 μg/m3 | 0.2 μg/m3 |
| 24-hour | 0.08 μg/m3 | 1.0 μg/m3 | 1.0 μg/m3 |

Since EPA did not adopt the option expected, LRAPA is proposing adoption of EPA’s Class I SILs to replace the SILs adopted in the temporary rule.

|  |  |  |  |
| --- | --- | --- | --- |
| EPA SILs | **Air Quality Area Designation** | | |
| Averaging Time | Class I | Class II | Class III |
| Annual | 0.06 μg/m3 | 0.2 μg/m3 | 0.2 μg/m3 |
| 24-hour | 0.07 μg/m3 | 1.0 μg/m3 | 1.0 μg/m3 |

LRAPA’s proposed Class II and Class III SILs are lower than EPA’s values because LRAPA established lower levels in the early 1990’s for PM10 due DEQ’s establishment of the SIL statewide to address significant air quality problems in the Medford area. Air quality in this area has improved over time but it is still an area of concern. The lower SILs have been maintained as part of LRAPA’s State Implementation Plan to ensure that air quality does not deteriorate. Despite the lower PM10 SILs, LRAPA currently has one area in the Lane County that does not meet ambient air quality standards for PM2.5.

EPA’s Class II and III SILs for PM2.5 are higher than LRAPA’s existing SILs for PM10. Since PM2.5 emissions consist of smaller particles and are considered a subset of PM10 emissions, LRAPA is proposing that the PM2.5 SIL be set at a level equal to LRAPA’s current PM10 SIL.

The proposed rules also change how small scale local energy projects are evaluated under LRAPA’s rules based on recent changes to Oregon’s statutes resulting from House Bill 2952. EPA requires states to have minor source construction approval programs, in addition to the major source program described above, but gives flexibility in how to do this. LRAPA’s existing minor source construction approval program in effect applies major source NSR/PSD requirements to any source with emissions over the Significant Emission Rate. This is above and beyond what is required by the federal rules. HB 2952 revised how minor source construction approval works for small scale local energy projects in Lane County providing LRAPA with greater flexibility on how to implement the program. The changes in the proposed rule still meet EPA’s general requirement to have a construction approval program for minor sources and do not change the stringency of the rule.

**If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).**

LRAPA’s proposed rules maintain inherent differences between LRAPA’s existing permitting program rules and the federal rules for the purpose of administrative consistency with the exception of the SILs which are more stringent for Class II and Class III for environmental and administrative reasons. See discussion above in response to Question 1. Adopting the federal program for some pollutants while maintaining the Oregon program for other pollutants could cause confusion and it would be resource intensive to administer two different programs in the state. Also converting the entire program to match the federal program would be a major undertaking, requiring significant resources and technical challenges. In addition to maintaining administrative consistency there are a number of other benefits to the LRAPA program as described below.

The Oregon (and LRAPA’s) NSR/PSD program was used as one of the models to support the development of the federal NSR reform rules. In particular, Oregon’s and LRAPA’s Plant Site Emission Limit was a model for the federal Plantwide Applicability Limit (PAL). The federal PAL is set by adding the Significant Emission Rate to the highest actual emissions over any two year period in the previous ten years.

The foundation for calculating net emission increases or decreases for determining applicability of the NSR/PSD program in the LRAPA rules is the Plant Site Emission Limit established for each source. PSELs manage airshed capacity and provide the basis for:

1) assuring reasonable further progress towards attainment of ambient standards;

2) assuring compliance with ambient standards and PSD increments (the maximum concentration increase that is allowed to occur above a baseline concentration for a specific pollutant);

3) administering the emissions trading program; and

4) tracking PSD increment consumption (the cumulative impact of emissions growth in areas that meet air quality standards).

It is also important to note that any increase in actual emissions above the PSEL requires the source to apply for, and LRAPA to approve, a revision to the PSEL in the LRAPA air quality construction permit. The PSEL rules are consistent with the requirements of the Clean Air Act as they allow increases in actual emissions only if such increases would not exceed applicable emission limitations, or cause ambient air quality standards, PSD increments or reasonable further progress to be violated. The LRAPA rules, therefore, have a more clearly established baseline than in the EPA rules.

Because the PSEL is typically based on actual emissions in the 1978 baseline year, the LRAPA approach is equivalent to how EPA determines whether there is a net emissions increase. Furthermore, LRAPA accumulates **all** emissions increases and decreases from physical changes or changes in operation since the baseline year or last major source permit, whichever is more recent, rather than just during a “contemporaneous” time period. This aspect of LRAPA’s program is similar to the federal PAL. Both provide a net environmental benefit and flexibility because they create an incentive for sources to voluntarily reduce emissions in order to avoid triggering NSR/PSD. The PSEL and PAL both have provisions to be reduced if emission reductions at the sources occur and make the caps excessively high. The PSEL and PAL also eliminate the possibility of a gradual increase of emissions over time by piecemeal projects not triggering NSR/PSD. Under the federal rules where a PAL is not chosen, an increase or decrease in actual emissions is contemporaneous. The increases from previous changes at the facility are only looked at if they occurred with 10 years of the date of a proposed new change.

In Lane County all emissions units that contribute to the emissions increase above the SER are required to install retrofit Best Available Control Technology. BACT, an emission limitation based on the maximum degree of emission reduction by the most stringent technology available for controlling emissions, is required unless it can be demonstrated that it is not feasible for energy, environmental, or economic reasons. Under the federal program, the BACT requirement applies to each individual new or modified affected emissions unit and pollutant emitting activity at which a net emissions increase would occur. Individual BACT determinations are performed for each pollutant subject to a PSD review emitted from the same emission unit. Consequently, the BACT determination must separately address, for each regulated pollutant with a significant emissions increase at the source, air pollution controls for each emissions unit or pollutant emitting activity subject to review.

The LRAPA program, although substantially different from EPA’s regulations, provides a workable program which is equivalent to EPA’s and will accomplish the Clean Air Act goal of preventing significant deterioration of air quality.

Small Scale Local Energy Project

HB 2952 (2009) requires these changes to the rules in order to match Oregon’s revised statutes.

What alternatives did DEQ consider if any?

Greenhouse Gas (GHG) Prevention of Significant Deterioration

LRAPA considered not taking delegation of the NSR/PSD program for GHGs. The result of this alternative would be confusion in terms of administering, issuing, enforcing and complying with these requirements since NSR/PSD permits would be issued both by EPA and LRAPA. Depending on the pollutant, the NSR/PSD programs are implemented differently. It would require additional coordination and staffing to ensure LRAPA and EPA approved permits within a similar timeframe, otherwise construction could be delayed. This alternative was not pursued because it would make the NSR/PSD program very disconnected and would make administration of the program impractical.

There are at least two steps in EPA’s Tailoring Rule that phase-in applicability for PSD and title V permits for the largest emitters of GHGs. For the first step, beginning on January 2, 2011, PSD or title V requirements will apply to sources’ GHG emissions only if the sources are subject to PSD or title V anyway due to their non-GHG pollutants. Therefore, EPA will not require sources or modifications to evaluate whether they are subject to PSD or title V requirements solely on account of their GHG emissions. The second step of the Tailoring Rule, beginning on July 1, 2011, will phase in additional large sources of GHG emissions. New sources as well as existing sources not already subject to title V that emit, or have the potential to emit, at least 100,000 tons per year CO2e (carbon dioxide equivalent) will become subject to the PSD and title V requirements. In addition, sources that emit or have the potential to emit at least 100,000 tons per year CO2e and that undertake a modification that increases net emissions of GHGs by at least 75,000 tons per year CO2e will also be subject to PSD requirements.

LRAPA and DEQ considered implementing the second step of the phase-in to begin on January 2 rather than July 1, 2011; however permitting resources would not be available to meet the earlier deadline and the GHG PSD rules will not be adopted until April, 2011.

LRAPA is also considering and requests comments on three other options DEQ is considering as described in the Alternative Rule Options document. In particular, DEQ is contemplating and would like comment on adopting EPA’s method for establishing when PSD is triggered for greenhouse gas emissions.

PM2.5 Significant Impact Levels

LRAPA considered EPA’s proposed options for SILs for Class II and Class III areas. However, EPA’s Class II and III SILs for PM2.5 are higher than LRAPA’s PM10 SIL since PM2.5 emissions consist of smaller particles and are considered a subset of PM10 emissions. Also adopting higher SILs for PM2.5 would not be consistent with the need to bring Oakridge (and Klamath Falls) into attainment, or meeting the ambient air quality standards for PM2.5.

Small Scale Local Energy Project: LRAPA did not consider alternatives to this proposal because it the proposal is consistent with changes directed by legislature.

1. Permitting Rule Updates:

For the most part, this rulemaking proposes to adopt federal air quality requirements by reference. This rulemaking does not add new substantive requirements that are different or in addition to federal requirements contained in 40 CFR Part 63.

What alternatives did DEQ consider if any?

No alternatives to the federal air quality requirements so as to maintain consistency with the state (DEQ) and federal (EPA) corresponding requirements.

1. Greenhouse Gas Reporting Fees for ACDP Sources:

LRAPA has authority by reference to implement the division 215 GHG reporting requirements in Lane County and so no differences are being proposed with respect to those reporting rules and their relationship to the federal GHG reporting requirements.

LRAPA’s proposal would establish fees for ACDP sources subject to LRAPA’s greenhouse gas reporting rules that are required to obtain air quality permits pursuant to ORS 468A.040, ORS 468A.155 and ORS 468A.310. This would not affect sources that hold operating permits with LRAPA under Title V of the federal Clean Air Act since the Title V fees for Lane County sources is specified by way of division 220 in DEQ’s rules.

**If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).**

Global warming poses a serious threat to Oregon’s economy, environment and public health. The Intergovernmental Panel on Climate Change Fourth Assessment Report (2007) states with very high confidence that human activities have led to global warming, which has led to increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level. Other changes include warmer and fewer cold days and nights over most land areas; warmer and more frequent hot days and nights over most land areas; and heavy precipitation events. If current greenhouse gas emission trends continue, Oregon may experience coastal and river flooding, snow pack declines, lower summer river flows, impacts to farm and forest productivity, energy cost increases, public health effects and increased pressures on many fish and wildlife species.

Governor Kulongoski developed an aggressive agenda to combat global warming and several initiatives are underway to reduce greenhouse gas emissions in Oregon. Greenhouse gas reporting is crucial for Oregon to track and evaluate its greenhouse gas emissions. Reporting will help the state understand its overall emissions, which will better equip us to evaluate progress toward state greenhouse gas reduction goals, pursue local policies and actions to reduce emissions and inform and shape national policies in ways that benefit Oregon residents and businesses.

LRAPA needs fee revenue to cover costs of developing and implementing the greenhouse gas reporting program. LRAPA could not administer Oregon’s reporting program in Lane County without the proposed fees.

What alternatives did DEQ consider if any?

LRAPA did not consider any alternatives to the GHG reporting fees. LRAPA chose to be consistent with those fees specified by DEQ for their ACDP sources subject to GHG reporting requirements.

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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.

Land-use considerations are identified by way of each major component of this LRAPA rule package titled “PM2.5 and GHG Rule Changes”. The three (3) major components of the rule package are identified in the following table with the corresponding DEQ rule item.

|  |  |
| --- | --- |
| LRAPA “PM2.5 and GHG Rule Changes” Rule Package – Contains three (3) major components: | Corresponding DEQ Rulemaking: |
| 1. PM2.5 and Greenhouse Gas (GHG) New Source Review/Prevention of Significant Deterioration (NSR/PSD) permitting thresholds | Agenda item D, Rule adoption: New Source Review/particulate matter and greenhouse gas permitting requirements and other permitting updates April 21-22, 2011, EQC meeting |
| 1. Permitting Rule Updates: 2. Area Source NESHAPs 3. Area Source NESHAP Permitting 4. General ACDP Attachments 5. Registration 6. Other Federal Air Quality Regulations | Agenda item P, rule adoption: Adoption of federal air quality regulations December 10-11, 2009 EQC meeting |
| 1. Greenhouse Gas Reporting Fees for ACDP Sources | Agenda item Q, Rule Adoption: Oregon greenhouse gas reporting rules October 20-22, 2010 EQC meeting |

1. PM2.5 and Greenhouse Gas (GHG) New Source Review/Prevention of Significant Deterioration (NSR/PSD) permitting thresholds

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

DEQ’s statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules. In LRAPA’s Rules and Regulations, new regulated pollutants will be added to those that are required to be permitted but the requirements for the permitting of these activities and the review of their land use impacts remain unchanged.

1. Permitting Rule Updates

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

DEQ’s statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules. LRAPA will implement these rules through their ACDP and Title V permitting programs. Currently cities and counties must provide a Land Use Compatibility Statement approval before LRAPA issues these permits or approves a Notice of Construction.

1. Greenhouse Gas Reporting Fees for ACDP Sources

Determination

DEQ determined that the proposed rules listed under the Chapter 340 Action section above **do 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.

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| Stakeholder and public involvement |

Advisory committee

Summary: LRAPA held public stakeholder meetings on July 22, 2010 and August 25, 2010 to discuss the proposed temporary rule changes as well as a preview of the proposed permanent rule changes. All permit holders and individuals who indicated an interest in LRAPA actions and information were notified and invited to attend. An announcement of the meetings was also posted on LRAPA’s website. Additional stakeholder involvement was obtained from the Oregon Small Business Compliance Advisory Panel (2009), the LRAPA Advisory Committee (April 27, 2010), the Oregon greenhouse gas reporting advisory committee (2009) as well as the stakeholder meetings held by DEQ on these similar rulemakings (2009 and 2010). LRAPA held workshops to provide training and convey proposed permitting information to auto body shops and other surface coating sources subject to area source NESHAPs (December 20, 2009, and again a year later on December 20, 2010 and December 21, 2010).

LRAPA convened the LRAPA advisory committee on April 27, 2010. LRAPA’s Board of Directors has established an Advisory Committee to advise the Board in matters pertaining to the region, particularly on methods and procedures for the protection of public health and welfare and of property, from the adverse affects of air pollution. The LRAPA Advisory typically meets once per month on the fourth (4th) Tuesday of each month.

The 13-member committee included representatives from the general public, large industry, public health, public planning, agriculture, and fire suppression. The committee met once on April 27, 2010. In additional to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee was briefed on the proposed emergency rules for PM2.5 the notes from the April 27, 2010 meeting are included here:

* Emergency rule-making was addressed by staff member Max Hueftle. He discussed LRAPA’s request to the board for emergency rulemaking to allow us to permit for PM2.5 standards. PM10 has been used as a surrogate for PM2.5, but the provision has expired. Any new source or existing source renewing must comply. A final rule-making will address greenhouse gas permitting as well. Thresholds have yet to be determined for CO2.
* Earl asked about the next step. Merlyn said we will update the board at the May meeting and have a full package in June. In August, the formal rule-making process will begin. Max mentioned there may be changes to the opacity and grain-loading limits. He does not think this will impact facilities in Lane County.
* Gery asked about community outreach to people who may be impacted. Max listed the various ways residents are contacted.

Roster

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| --- | --- |
| Name | Representing |
| Russ Ayers, Chair | Large Industry |
| Amy Peccia, Member | Large Industry |
| Earl Koenig, Member | General Public |
| Diana Bollenbaugh, Member | Small Industry |
| Chuck Gottfried, Member | Agriculture |
| Larry Dunlap, Member | Public Health |
| Maurie Denner, Member | General Public |
| Gery Vander Meer, Member | General Public |
| Paul Engelking, Member | General Public |
| Link Smith, Member | Fire Suppression |
| Don Holkestad (resigned) , Member | General Public |
| Hugh Larkin, Member | General Public |
| John Tamulonis, Member | Public Planning |

DEQ convened the Oregon greenhouse gas reporting advisory committee in 2007 to make recommendations on the initial greenhouse gas reporting rules adopted in 2008; LRAPA representatives (LRAPA Director and/or LRAPA Operations Manager) were invited to participate on the committee and attended meetings to provide input. DEQ reconvened the committee in 2009 to make recommendations on changes proposed by their corresponding GHG reporting rulemaking including reporting fees. The committee included Chair Mark Reeve and 23 members representing various stakeholder interests. The committee met five (5) times from September 2009 through April 2010. The committee made recommendations for updating the reporting program as described in the committee report available upon request. The recommendations are reflected in the proposed rules. The committee reviewed whether the proposed rules will have a fiscal impact, what the extent of impact will be, and whether the rule will have a significant impact on small business. The committee concluded the proposed rules would have a fiscal and economic impact on businesses. The committee felt the extent of the impact is outlined adequately in DEQ’s draft Statement of Need and Fiscal and Economic Impact, which DEQ revised based on committee recommendations. The committee concluded the rules have a significant adverse impact on the small businesses DEQ indicated would be directly affected by draft rules. However, the committee felt that despite any possible adverse impact on small business, DEQ minimized costs as much as possible at this time. The committee did not believe there is a need at this time for additional mitigation steps outlined in ORS 183.540. LRAPA proposes rules that include the considerations of the committee and the adjustments made by DEQ in their corresponding rule making.

 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 October 2013[*Oregon Bulletin*](http://arcweb.sos.state.or.us/pages/rules/bulletin/past.html) will publish the Notice of Proposed Rulemaking with Hearing for this rulemaking. DEQ also:

* Posted notice on DEQ’s webpage <http://www.deq.state.or.us/regulations/proposedrules.htm> on mmm dd, yyyy.
* E-mailed notice on mmm dd, yyyy to:
* Approximately #### interested parties through GovDelivery on mmm dd, yyyy.
* #### stakeholders on the Enter other mailing lists here.
* 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 the advisory committee.
* Mailed the notice by U.S. Postal Service to ## interested parties on mmm dd, yyyy.
* Sent notice to EPA on mmm dd, yyyy.
* Enter other notices here on mmm dd, yyyy.

Public hearings

LRAPA acted as DEQ’s hearings officer on behalf of the Environmental Quality Commission for public comment on the rule amendments. DEQ’s authorization is included in the letter to LRAPA in the Stringency Review and Authorization section of this document.

The table(s) below includes information about how to participate in the public hearings.

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 presiding officer will provide a brief summary of 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 Friday October 18, 2013 at 5:00 p.m.