

Oregon Department of Environmental Quality

**July 15, 2013**

Notice of Proposed Rulemaking

***Incorporate Lane Regional Air Pollution Authority Rules***

***For Permit Streamlining into***

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

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| **Overview** |

Short summary

DEQ proposes amendments to Oregon Administrative Rule 340-200-0040 others? and Oregon’s State Implementation Plan to incorporate Lane Regional Air Pollution Agency rules, which are known as titles, amended on month date, 2011. The LRAPA titles were enacted in Lane County, but have not been incorporated into the State Implementation Plan. The titles result in.

DEQ proposes incorporation of the following LRAPA titles into Oregon’s State Implementation Plan:

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 adopted by EQC under OAR 340-200-0040 and approved by EPA as the State of Oregon Clean Air Act Implementation Plan. EQC approves and directs DEQ to submit all LRAPA titles to EPA as amendments to the State Implementation Plan. Though this is not the case here, an exception to this requirement allows the DEQ to approve any LRAPA titles that are verbatim restatements of DEQ rules that the EQC has already approved.

Regulated parties

DEQ’s proposed amendments affect facilities in Lane County that hold air quality permits with LRAPA.

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| **Statement of need** |

What problem is DEQ trying to solve?

How would the proposed rule solve the problem?

If the EQC adopts the rule, the amendments will be submitted by DEQ to the U. S. Environmental Protection Agency as a revision to the State of Oregon Clean Air Act State Implementation Plan.

How will LRAPA/DEQ know the problem has been solved?

DEQ will know the inconsistencies have been solved when EPA approves incorporation of the proposed changes into the State Implementation Plan.

Request for other options

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

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| Rules affected, authorities, supporting documents |

Lead divisionProgram or activity

For LRAPA: Enter text here Enter text here

For DEQ: Air Quality Enter text here

WE’LL NEED TO ASK THE REVIEWERS IF THERE ARE OTHER RULES THAT NEED AMENDING.

Chapter 340 action

Recommendation Division Rule Title SIP/Land use\*

amend 200 0040 TEXT SIP

Choose an item. 000 0000 TEXT Choose an item.

Choose an item. 000 0000 TEXT Choose an item.

\* SIP – This rule is part of the State Implementation Plan.

\* Land use – DEQ State Agency Coordination Program considers this rule, program or activity is a land use program.

Statutory authority

ORS 468.020, 468A.025 and 468A.460 (Andrea has not verified these) ARE THERE OTHERS? DID ANYONE VERIFY?

Other authority

LRAPA Titles 13 and 14?

Statute implemented Legislation Year

ORS Enter here [ENTER BILL #] Enter here yyyy

Documents relied on for rulemaking

[ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html) (Andrea has not verified this)

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| **Document title** | **Document location** |
| LRAPA Titles | [www.lrapa.org](http://www.lrapa.org) or at LRAPA office  1010 Main Street,  Springfield, OR 97477 |
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| OTHERS |  |

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| Fees |

This rule proposal does not involve fees (right?)

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

Fiscal and Economic Impact

Statement of Cost of Compliance

Impacts on general public

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

Impact on other government entities other than DEQ

* Local governments
* State agencies

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

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

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

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| a) Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule. |  |
| b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule. |  |
| c) Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule. |  |
| d) Describe how DEQ involved small businesses in developing this proposed rule. |  |

Documents relied on for fiscal and economic impact

[THIS INFORMATION MAY BE A SUBSET OF Rules affected, authorities, supporting documents ABOVE. DOCUMENT RELIED ON FOR THE FISCAL MUST BE DUPLICATED HERE TO MEET APA REQUIREMENTS. ]

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| **Document title** | **Document location** |
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Advisory committee

Andrea is guessing here and doesn’t see this stated in LRAPA’s rulemaking. Needs to be verified with LRAPA:

When LRAPA developed the proposed amendments, it consulted the Citizens Advisory Committee and made minor revisions to the draft amendments in response to committee comments.

The committee reviewed the information in this fiscal and economic impact statement. In compliance with [ORS 183.333](http://www.leg.state.or.us/ors/183.html), LRAPA 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 compliance with [ORS 183.540](http://www.leg.state.or.us/ors/183.html).

[ADD ANY SPECIFICS ABOUT THE COMMITTEE’S INVOLVEMENT WITH THE FISCAL AND ECONOMIC IMPACT STATEMENT] Enter text

Housing cost

To comply with [ORS 183.534](http://www.leg.state.or.us/ors/183.html), DEQ determined the proposed rules would have no effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

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| **Federal relationship** |

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

Relationship to federal requirements

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), LRAPA determined this rule proposal is “in addition to federal requirements.” There are no federal rules applicable to open burning. The LRAPA open burning rules are an element of the State Implementation Plan that is a federally approved and enforceable strategy outlining how Oregon will meet federal air quality standards (Andrea has not verified this)

What alternatives did LRAPA consider, if any?

[DESCRIBE ANY ALTERNATIVES CONSIDERED AND WHY WE DID NOT PURSUE THEM] Enter text here

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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*, LRAPA considered:

* Statewide planning goals for specific references. Section III, subsection 2 of the DEQ State Agency Coordination Program document identifies the following statewide goal relating to DEQ's authority:

**Goal Title**

5 Open Spaces, Scenic and Historic Areas, and Natural Resources

6 Air, Water and Land Resources Quality

11 Public Facilities and Services

16 Estuarial resources

19 Ocean Resources

* [OAR 340-018-0030](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_018.html) for EQC rules on land-use coordination. Division 18 requires DEQ to determine whether proposed rules will significantly affect land use. If yes, how will DEQ:
  + Comply with statewide land-use goals, and
  + Ensure compatibility with acknowledged comprehensive plans, which DEQ most commonly achieves by requiring a [Land Use Compatibility Statement](http://www.deq.state.or.us/pubs/permithandbook/lucs.htm).
* DEQ’s mandate to protect public health and safety and the environment.
* Whether DEQ is the primary authority that is responsible for land-use programs or actions in the proposed rules.
* Present or future land uses identified in acknowledged comprehensive plans.

Determination

LRAPA determined that the proposed rules identified under the 'Chapter 340 Action' section above and Title 47 **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.

The proposed rules are consistent with land use in applicable Lane County land use plans.

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| Stringency Review and Authorization |

Insert copies of LRAPA’s letter.

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| Stakeholder and public involvement |

Advisory committee

[SOME OF THIS INFORMATION WILL REPEAT THE Advisory Committee SUBSECTION OF THE Statement of Need and Economic Impact ABOVE. THOUGH THE TWO SECTIONS ARE NOT EXACT, MAKE SURE THEY DO NOT CAUSE AMBIGUITY. THE ADVISORY COMMITTEE INFORMATION IS IN THIS LOCATION TO PRESENT A COMPLETE PICTURE OF OUR PUBLIC INVOLVEMENT. THE INFORMATION IS IN THE Statement of Need and Economic Impact TO MEET APA REQUIREMENTS.]

LRAPA convened the [ENTER ADVISORY COMMITTTEE NAME] advisory committee on [DATE]. [DESCRIBE COMMITTEE CHARTER] Enter text here.

The ##-member committee included representatives from [GENERALLY DESCRIBE COMMITTEE MAKEUP.] The committee met ## times over ## months. The committee recommended that [SUMMARIZE RECOMMENDATION OR INVOLVEMENT AND LINK TO ANY FORMAL RECOMMENDATION.] The committee reviewed the fiscal impact statement, specifically impact on small businesses.

 EQC prior involvement

DEQ shares general rulemaking information with the EQC through the annual DEQ Rulemaking Plan review and monthly status report. DEQ and LRAPA did not share information with the EQC through the Director’s Dialogue or by an Information Item on the EQC agenda.

Public notice

The, 2013 *Oregon Bulletin* will publish the Notice of Proposed Rulemaking with Hearing for this proposed rulemaking. LRAPA and DEQ Public outreach includes:

* Posted notice on DEQ’s webpage <http://www.deq.state.or.us/regulations/proposedrules.htm> on.
* E-mailed notice to:
* Approximately #### interested parties through GovDelivery on mmm dd, yyyy.
* #### stakeholders on the [LIST OTHER MAILING LIST].
* ## key legislators required under [ORS 183.335](http://www.leg.state.or.us/ors/183.html) on mmm dd, yyyy. Key legislators included:
  + Name, Title, Committee
  + Name, Title, Committee
  + Name, Title, Committee
* Members of the advisory committee on mmm dd, yyyy.
* Mailed the notice by U.S. Postal Service to ## interested parties on mmm dd, yyyy.
* Sent notice to EPA on mmm dd, yyyy.
* Other

Public hearings

LRAPA plans to hold one. 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.

LRAPA 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/LRAPA 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/LRAPA 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 April 16, 2013 at 5 p.m.

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| Next steps |

DEQ will submit this proposal to the EQC to:

* Amend Oregon Administrative Rules,
* Approve LRAPA titles for inclusion into the Oregon Clean Air Act State Implementation Plan, and
* Direct DEQ to submit to EPA as SIP Amendments.

If approved, DEQ will submit the required documentation to federal Environmental Protection Agency for approval as a revision to the plan.