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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 340
DEPARTMENT OF ENVIRONMENTAL QUALITY

FILED: 10/27/2026 9:41 AM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: LRAPA Air Quality (AQ) Permitting Updates 2026

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/21/2027 5:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Emil Hnidey
Rules Coordinator

HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 01/14/2027
TIME: 12:15 PM - 12:30 PM
OFFICER: LRAPA Board

IN-PERSON HEARING DETAILS
ADDRESS: LRAPA Conference Room, 1010 Main Street, Springfield, OR 97477

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 541-736-1056

NEED FOR THE RULE(S):

1. Federal Regulation Changes: The need the proposed rules would address is aligning LRAPA with federal rules.
2. State Regulation Changes: These need in this group fall into the following two categories:

a. For crematory incinerator temperatures, the statutory change for HB 3729 was effective starting in September 2025 and is in direct conflict with existing LRAPA rule language and issued air quality permits.

b. DEQ adopted updated GDF rules in 2024 to require the use of new Stage 1 Enhanced Vapor Recovery Systems for certain GDFs, and LRAPA needs to either update our corresponding rules or adopt DEQ's by reference. LRAPA is proposing to repeal the outdated GDF rules and implement DEQ's by reference. Many GDFs required to hold an air permit are not required to install equipment to control gasoline vapors. For those that are required to install control equipment, there have been developments in vapor control technology that have made some previous control systems outdated or otherwise ineffective. These technology changes are largely attributed to changes to the regulations in California applicable to these facilities by the California Air Resources Board and are referred to in the proposed rules as Stage 1 Enhanced Vapor Recovery systems.

3. ACDP Fee Increases and Other Fee Changes: LRAPA's annual fees for ACDP sources are approximately 35% less than DEQ's corresponding annual fees. While the LRAPA fees for ACDPs in other categories such as Initial Application Fees have remained nearly equal to DEQ's corresponding fees due to annual 4% increases on July 1st by rule, Annual Fees for ACDPs have fallen nearly 35% behind DEQ and LRAPA's reserves are projected to decline below targeted levels if funding is not increased.

4. Other Changes: This part of the rulemaking is needed to repeal outdated rules that are no longer relevant, correct various typographical errors, incorrect cross references, and make various clarifications to air quality rules.

How would the proposed rule address the need?

1. Federal Regulation Changes: The proposed rules will address this need by adopting by reference the federal rules.

2. State Regulation Changes: For crematories, the rule language would establish temperature requirements that align, instead of conflict, with Oregon statute 468A.865. For GDFs, the proposed rules require installation of new or more effective vapor controls in various situations. For example, a new GDF that would have not been required to install any vapor controls would be required to at least install a Stage 1 vapor balance system to control vapors during storage tank refilling; an existing GDF that is adding or replacing a storage tank would have to also install Enhanced

Vapor Recovery systems based on their past records of dispensed fuel.

3. ACDP Fee Increases and Other Fee Changes: The proposed rule generates revenue to provide adequate program funding for the foreseeable future.

4. Other Changes: The proposed rules would address the need by correcting or updating each of the issues that have been identified.

How will LRAPA know the rules have addressed the needs stated above?

1. Federal Regulation Changes: The proposed rules will address this need by adopting by reference the federal rules.

2. State Regulation Changes: For crematories, DEQ will know the rule addressed the need when Oregon Administrative Rule and Orgon Revised Statute do not conflict. DEQ will also know when revised Basic and General Air Contaminant Discharge Permits are issued by DEQ and assigned or issued to affected facilities, clearly establishing the new temperature requirement. For GDFs, LRAPA will know that the rule has addressed the need if newly constructed GDFs submitting new permit applications indicate that vapor control equipment is installed or proposed to be installed. LRAPA will also know that the rules have addressed the need when agency staff receive the required Notice of Construction applications from GDF owners or operators detailing the control equipment proposed to be installed on new or replaced storage tanks.

3. ACDP Fee Increases and Other Fee Changes: The proposed rule will address the need if the increased fees provide adequate program funding through the LRAPA budget-setting process with the Budget Committee.

4. Other Changes: LRAPA will know the rule addressed the need when the changes are adopted and effective LRAPA Rules.

If the LRAPA Board and then the EQC adopt the proposed rule changes after considering public comments, DEQ would submit the rules to EPA to update Oregon's State Implementation Plan. LRAPA and DEQ would know that one of the goals of this rulemaking has been addressed when EPA reviews and approves the State Implementation Plan revision.

Federal relationship

Relationship to federal requirements

ORS 183.332, ORS 468A.327 and OAR 340-011-0029 require DEQ, and in some cases LRAPA, to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so. This section complies with those statutes and rules to clearly identify the relationship between the proposed rule changes and applicable federal requirements.

1. Federal Regulation Changes: Here, LRAPA (and DEQ) had determined that there is no need to adopt different rules than these federal rules, as written. The proposed

rules would adopt federal requirements by reference or verbatim, and nothing more, and are therefore not different from or in addition to federal requirements.

2. State Regulation Changes: For crematories, there are no federal requirements applicable to crematory incinerator operations. LRAPA is proposing changes to this rule for administrative purposes to align administrative rule language with applicable statutory provisions. For GDFs, the proposed rules add requirements in addition to those in federal requirements. Current requirements in LRAPA Rules and Regulations title 44 applicable to GDF owners and operators supplement applicable federal requirements found under the Code of Federal Regulations (40 C.F.R. part 63 subpart CCCCCC). The proposed rules modify and add requirements to various affected facilities to reduce Hazardous Air Pollutant and criteria pollutant emissions, improve air quality, improve public health, and require enhanced pollution controls that are readily available. For most facilities in the county, the proposed rules establish that control equipment changes are required when an existing gasoline storage tank is being replaced or added to the facility.

3. ACDP Fee Increases and Other Fee Changes: Federal law requires states to have both a Title V permit program and a permit program for non-major facilities, LRAPA's ACDP permitting program. The proposed rules fund the ACDP program. While there is a federal requirement for LRAPA to fully fund its Title V operating permit program through TV permit fees, there is no similar requirement for the ACDP program. LRAPA has increased the ACDP fees incrementally since the rules were overhauled in October of 2008, by applying an increase for the consumer price index (CPI) from 2009 to 2017, a one-time 10% increase in 2018, and then applying a four percent (4%) increase on July 1st each year since 2018. For the GHG reporting fee increase, Oregon's existing GHG Reporting Program aligns with federal regulations to the extent possible but also includes additional requirements unique to Oregon that support state-specific climate regulations. The fees assessed under the GHG Reporting Program cover LRAPA's direct costs of implementing GHG reporting requirements. But this rulemaking process is not proposing any new substantive regulations that exceed applicable federal requirements, it is only proposing fee increases.

4. Other Changes: LRAPA does not believe that any of the non-technical revisions to LRAPA Rules exceed applicable federal requirements except for the existing adopted rules that were already exceeding applicable federal requirements.

What alternatives did LRAPA consider and why are you not pursuing them?

1. Federal Regulation Changes: LRAPA considered Not adopting standards to implement the updated federal standards. LRAPAs rejected this alternative because it would establish two different standards, the federal/state and local, with which a facility would need to comply. This would complicate LRAPA's ability to ensure compliance and reduce LRAPA's ability regulate sources. LRAPA also considered making state specific changes to some federal standards. LRAPA rejected this alternative because consistency with the federal rules reduces cost and complexity for

affected sources and LRAPA has determined that these federal rules are sufficiently protective of human health and the environment.

2. State Regulation Changes: For GDFs, LRAPA considered the alternatives DEQ considered during their 2024 GDF rulemaking process. LRAPA chose to adopt the entire set of DEQ regulations by reference to ensure the GDF regulations are consistent statewide. For crematories, LRAPA considered not changing any LRAPA rule language, and also

considered proposing a lower temperature for crematory incinerators. LRAPA did not pursue this alternative because misalignment of the temperature requirement in LRAPA Rules and Regulations, Oregon Administrative Rule and Oregon Revised Statute will result in confusion among internal and external parties. For crematories, the legislative action establishes that LRAPA will not enforce any standard, rule, or requirement of higher than 1,600°F. Without changing the rule, there is a significantly increased chance that LRAPA staff, at some point in time, will attempt to enforce or apply the rule. LRAPA did not pursue the lower temperature alterative because the agency does not have sufficient information to ensure that lower operating temperatures will result in the same or less air pollutant emissions. The industry standard across the United States is operation of crematory incinerators at 1,600°F in the secondary/final combustion chamber and LRAPA does not have sufficient information to deviate from what was enacted by the Oregon legislature. Almost all crematory incinerators are regulated by LRAPA's General Air Contaminant Discharge Permits, meaning temperature variability and case-by-case approvals of lower temperatures would be difficult to track, regulate, implement, and enforce upon appropriately over time.

3. ACDP Fee Increases and Other Fee Changes: LRAPA's ACDP fees have had incremental increases using the CPI (2008-2017), a one-time 10% increase in 2018, and a 4% annual increase each year thereafter. LRAPA considered maintaining the 4% annual increase as part of the proposed 15% increase each year for three (3) consecutive fiscal years beginning on July 1, 2028, but chose instead to propose the use of the Employment Cost Index (ECI) capped at 5%. This refinement better aligns the escalator with LRAPA's actual cost drivers and reflects the cost realities that have unfolded since 2018. LRAPA also considered several other options of ACDP annual fees, including not adopting a proposed 15% increase each year for three (3) consecutive fiscal years beginning on July 1, 2028, but that would have resulted in budget constraints and reserves below LRAPA's 4-month reserves policy established by the LRAPA Board of Directors. For the GHG reporting fees, LRAPA considered delaying the fee increase, which would have resulted in a revenue shortfall for the program and would negatively impact program operations and staffing as well as the companies requiring technical assistance from the agency to properly comply with reporting regulations. Like DEQ, LRAPA also considered maintaining current fee rates for each permit type while removing the existing fee cap of $4,500. While this option would generate enough revenue for the program, it would result in disproportionate impacts to certain fee payers with significant increases to several individual sources while introducing no changes in fees for many other companies. LRAPA did not pursue these alternatives because the program would face a revenue shortfall impacting program implementation and preventing LRAPA from implementing the rules as intended. In their rulemaking, DEQ consulted with

impacted fee payers on these alternatives and the final proposal.

4. Other Changes: LRAPA considered not making technical revisions to the rules and considered holding a separate rulemaking to make technical revisions to LRAPA's rules. LRAPA did not pursue this alternative because it would have left these minor errors in rule. While many of the issues addressed are minor, they have the potential to significantly complicate or delay permitting actions, cost the agency additional time and money, and cause confusion among internal and external parties. Additionally, LRAPA did not hold a separate rulemaking to make significant technical changes for these titles because it would have taken substantially more agency resources.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Code of Federal Regulations: http://www.gpo.gov/fdsys/browse/collectionCfr.action?c ollectionCode=CFR
Federal Register: http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR
Oregon Administrative Rules: https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=80
Oregon Revised Statutes: https://www.oregon.gov/deq/Regulations/Pages/statute s.aspx
LRAPA Rules and Regulations: https://www.lrapa-or.gov/air-quality-protection/about-lrapa/regulations-rules/

HB3729 Enrolled: https://olis.oregonlegislature.gov/liz/2025r1/Measures/Overview/HB3729

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

ORS 183.335(2)(b)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state. ORS 183.335(2)(a)(F) and HB 2993 and do not apply to LRAPA since LRAPA is not a state agency. However, LRAPA expects similar impacts on racial equity in Lane County as did DEQ in their corresponding rulemakings.

1. Federal Regulation Changes: LRAPA does not expect that implementing these draft rules will impact existing racial equity either positively or negatively; it maintains the status quo. Because this rulemaking is in response to federal requirements, LRAPA does not anticipate significant impacts on services and or fees because the action is matching federal requirements with applicability dates that have already passed for those federal requirements.

2. State Regulation Changes: For crematories, since the proposed rules will apply equally across all crematory incinerators, there is no expected impact on racial equity in the state. Establishing these requirements, as proposed, will align LRAPA's rules with Oregon Administrative Rules and with Oregon Revised Statutes as necessary to protect public health.

For GDFs, adopting the rules, as proposed, will help to protect public health and the environment (via compliance with the rules, inspections and enforcement) which may be particularly important in BIPOC or historically underserved communities. This is because the proposed rule amendments incorporate additional control technologies and technical clarifications for regulated companies while continuing to support the programs' overall implementation and objectives. Proposed rule amendments include the requirement to install gasoline vapor control technology and equipment at almost all newly constructed gasoline dispensing facilities, requiring additional or improved vapor control technology at existing facilities when storage tanks are added or replaced, and requiring these technologies at relatively large (high throughput) facilities.

3. ACDP Fee Increases and Other Fee Changes: Adoption of the proposed rule would affect ACDP and GHG reporting fees across various sectors, public and private. Since the fee increase will apply equally across all ACDP permit categories, and there are no expected changes to practical implementation of the program activities because of this rule adoption, there is no expected impact on racial equity in the state. Increasing the fees, as proposed, will help maintain program services critical to protecting public health and the environment, which may be particularly important in BIPOC or historically underserved communities.

4. Other Changes: Adoption of the non-technical rule changes will not have an impact on racial equity.

FISCAL AND ECONOMIC IMPACT:

1. Federal Regulation Changes: These federal requirements already apply directly to sources, so LRAPA's adoption of them by reference will not add any new costs for sources but may decrease the administrative burden by streamlining the permitting process. Additionally, cost impacts of all NSPS and NESHAPs have been prepared by EPA and are provided in the Federal Register notices for those rules. For brevity, because LRAPA is adopting many rules by reference, the EPA fiscal impact statement for each NSPS and NESHAP rule is not included here. EPA evaluated the fiscal and economic effects of their rules and lists those effects in the preambles to their regulations. Based on the applicability date of EPA's rules, including the Startup Shutdown Malfunction and NAAQS updates, any economic impacts may have already occurred for Lane County agencies and businesses. LRAPA has no choice but to update the NAAQS, to maintain authority to implement the Clean Air Act in Oregon, and to make the Startup Shutdown Malfunction rule update, based on the federal court's decision on that issue. LRAPA is aligning its rules to EPA's federal standards and DEQ's rule adoptions, so there are not additional financial impacts outside of EPA's assessments. One benefit of aligning LRAPA with federal standards is that it reduces the administrative cost of compliance with differing federal and state standards.

2. State Regulation Changes: the proposed rules addressing HB 3729 which establish an upper limit on the required operating temperature for crematory incinerators may have a positive fiscal impact on crematory incinerators owners and operators who have installed an incinerator on or after March 13, 1993. These owners and operators will burn less fuel operating at a lower temperature and are expected to see an overall reduction in their operational costs. Owners and operators of crematory incinerators that were installed prior to this date remain subject to the same temperature limit of 1,600°F and are not expected to have a fiscal impact.
3. ACDP Fee Increases and Other Fee Changes: Increases in ACDP Annual Fees would affect approximately 300 ACDP holders and registrants and increase program revenue from $785,000 per year to $1,190,000 per year over three (3) fiscal years, for a total annual increase of approximately $409,000. Increases in ACDP fees would also indirectly affect approximately 16 of the 307 permit holders subject to Oregon's greenhouse gas reporting program and increase program revenue by $17,228 per year.

Increasing the GHG reporting fees would raise costs to the affected permit holders but ensures that the program has adequate funds to support its operations. Fully funding the program ensures that the agency can provide technical and compliance assistance to those regulated entities, reducing the risk of non-compliance and related enforcement actions or costs.
4. Other Changes: The non-technical updates are not expected to have a fiscal impact.

Statement of cost of compliance
State agencies
Federal and state agencies hold approximately one (1) Air Contaminant Discharge Permit. For state agencies, the cost to comply with the proposed rule changes are similar to costs described under small businesses.

Local governments
Local governments hold approximately six (6) Air Contaminant Discharge Permits. For local governments, the cost to comply with the proposed rule changes is similar to costs described under small businesses.

Public
The public is not directly regulated by the proposed rules. However, owners and operators of facilities affected by this rulemaking could pass costs or savings on to the public by changing the costs of goods or services. DEQ does not have available data or information to estimate the public impacts further.
Large businesses - businesses with more than 50 employees Approximately 150 large businesses hold Air Contaminant Discharge Permits, and 15 large businesses hold Title V operating permits.

COST OF COMPLIANCE:
(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Small businesses - businesses with 50 or fewer employees
LRAPA estimated that there were 139 small businesses with air quality permits. There were an additional number of facilities with air quality permits that did not list the number of employees they have but would presumably fall into businesses with fewer than 50 employees based on types of business (e.g., gasoline stations and dry cleaners). Generally, facilities with less complex permits experience a smaller economic impact than larger facilities with more complex permits.

1. Federal Regulation Changes: LRAPA does not find adequate reason to believe that this portion of the rulemaking would result in a fiscal increase to state or local governments, the public, large businesses, and small businesses. Making LRAPA's rules consistent with federal and state regulations helps businesses save time which can indirectly ease impacts to the public if businesses choose to reduce the price of goods or services.
2. State Regulation Changes: For crematories, there are no impacts to state agencies or local governments because of this portion of the rulemaking. The public is not directly regulated by the proposed rules, but owners of crematories affected could pass costs or savings on to the public by changing the costs of goods or services. Additionally, LRAPA does not expect a negative fiscal impact to large or small businesses because of this portion of the rulemaking. Operational costs for crematories should either remain the same or be reduced due to less natural gas combustion.
For GDFs, LRAPA is relying on the fiscal impact analysis DEQ conducted included in the Notice of Proposed Rulemaking for the rules adopted in 2024. A link to that DEQ rulemaking is provided in the table at the end of this section.

3. ACDP Fee Increases and Other Fee Changes: The permit fee increases would affect permit holders directly. Adjustments to the calculation of greenhouse gas reporting fees would also affect any permit holders subject to the fees indirectly. Changes to fees could also affect state and local agencies indirectly if businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee. Changes to fees could affect the public indirectly if businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee. For large and small businesses, the permit fee increases would affect these permit holders directly. Adjustments to the calculation of greenhouse gas reporting fees would also affect any permit holders subject to the fees indirectly. The type of permit required for a facility determines the permit fees regardless of the number of employees. Changes to fees could also affect businesses indirectly if other businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee.
4. Other Changes: Non-technical updates are not expected to have a fiscal impact on state or local governments, the public, large businesses, or small businesses.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

LRAPA's standing Citizens Advisory Committee (CAC) was provided on-going updates of the rulemaking progress and provided guidance to staff during the entire process. The CAC received an overview of the proposed rules at their July 28, 2026 meeting and provided feedback to LRAPA on the proposed rules. Further feedback was received at the September 29, 2026 meeting where we discussed the LRAPA Board of Directors ACDP fee increase action adopted at their September 10, 2026 meeting, and the CAC recommended the Board authorize a public hearing.
DEQ appointed a rules advisory committee for their corresponding rulemaking and the fiscal impact statement. See the links to those DEQ rulemaking pages in the "Documents relied upon for fiscal and economic impact" above for more information.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

HOUSING IMPACT STATEMENT:

As ORS 183.534 requires, LRAPA evaluated whether the proposed rule changes 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.

1. Federal Regulation Changes: The federal regulations proposed for adoption by reference could have a negative impact on the cost of development of a 6,000 square-foot parcel and the construction of a 1,200 square-foot detached single-family dwelling on that parcel. This impact could occur if permit holders affected by new or updated federal standards obtain a permit and pass the permitting fees for such development or required changes through to the

consumer. LRAPA does not have available information to quantify how many permit holders would pass the permitting fees or other costs through to the consumer and any such estimate would be speculative. LRAPA does not anticipate any business to become subject to regulatory oversight by LRAPA or newly require an air permit because of this rulemaking.
2. State Regulation Changes: For crematories, LRAPA determined the proposed rules would have no effect on the development costs. Owners and operators of crematories will either have no impact or a positive impact, but these changes are unlikely to impact housing costs.

For the GDFs, LRAPA determined the proposed rules could affect development costs. If gasoline dispensing facility owners or operators subject to the proposed rules increased the cost of gasoline in response to the requirements, contractors and other individuals involved in developing the property may pass their increased cost along to the end-user or purchaser of the property. LRAPA does not have information to estimate how much, if any, the increase in cost would be.
3. ACDP Fee Increases and Other Fee Changes: While the costs associated with the fee increases could be passed through by businesses providing products and services for such development and construction, the possible impact of these potential changes appears to be minimal. LRAPA has determined the proposed rules would have little to no effect on

development costs. LRAPA cannot accurately quantify the impact at this time because the available information does not indicate whether the costs would be passed on to consumers and any such estimate would be speculative.

NOTE: Additional PDF filed with this filing is attached to this document. You may view the attachment filingAttachment.pdf from the Attachments panel. Alternately, you may view the attachment at the following link: https://secure.sos.state.or.us/oard/viewFilingAttachment.action?filingRsn=63732

AMEND: 340-200-0040

RULE SUMMARY: Updating date to reflect this revision to the State of Oregon Air Quality Control Program.

CHANGES TO RULE:

340-200-0040
State of Oregon Clean Air Act Implementation Plan ¶

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the State Implementation Plan (SIP) of the State of Oregon under the FCAA, 42 U.S.C.A 7401 to 7671q.¶
(2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR chapter 340, division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the EPA for approval. The SIP was last modified on ~~October 12, 2026~~ENTER DATE.¶
(3) Notwithstanding any other requirement contained in the SIP, DEQ may:¶
(a) Submit to the EPA any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 C.F.R. 51.102; and¶
(b) Approve the standards submitted by LRAPA if LRAPA adopts verbatim, other than non-substantive differences, any standard that the EQC has adopted, and submit the standards to EPA for approval as a SIP revision.¶
(4) Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the EPA. If any provision of the federally approved State Implementation Plan conflicts with any provision adopted by the EQC, DEQ must enforce the more stringent provision.
Statutory/Other Authority: ORS 468A, ORS 468.020
Statutes/Other Implemented: ORS 468A.035, 468A.135