



**LRAPA BOARD OF DIRECTORS
AGENDA ITEM SUMMARY**

Director's Report for April 2015

Meeting Date: May 14, 2015
Department: Director's Office
www.lrapa.org

Agenda Item No. 6
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AIR QUALITY

Eugene-Springfield

Air quality in April was in the good category on all 30 days, with a high AQI of 40 for particulate matter (PM) on April 20th.

Oakridge

Air quality in April was in the good category on all 30 days, with a high AQI of 38 for particulate matter (PM) on April 23rd.

Cottage Grove

Air quality in April was in the good category on all 30 days, with a high AQI of 35 for particulate matter (PM) on April 18th.

Attachment No. 1: Air quality index charts for Eugene/Springfield (April)

Attachment No. 2: Air quality index charts for Oakridge (April)

Attachment No. 3: Air quality index charts for Cottage Grove (April)

COMPLAINTS: 04/01/15 to 04/30/15

TOTAL: 48

1. Smoke – **35** total smoke complaints: 27 for open burning and 6 for home-wood heating, 2 for slash burning.
2. Industry – **4** total odor complaints: 1 for JH Baxter; 1 for Seneca Sustainable Energy; 1 for Halsey Mill and 1 for International Paper.
3. Fugitive Dust – **1** total fugitive dust complain:
4. Miscellaneous – **8** total miscellaneous complaints: 5 general air quality complaints; 2 auto body and 1 unknown.

For perspective, here is how the number of complaints received year-to-date in 2015 compares to previous years:

| Year | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015* |
|---------------------|-------------|-------------|-------------|-------------|-------------|------------|------------|------------|------------|------------|------------|------------|
| Dust | 17 | 35 | 33 | 6 | 21 | 21 | 34 | 33 | 44 | 30 | 14 | 3 |
| Ag/Field Burning | 103 | 330 | 576 | 341 | 101 | 24 | 9 | 13 | 1 | 17 | 4 | 2 |
| General Air Quality | 2 | 8 | 7 | 63 | 14 | 21 | 2 | 6 | 6 | 26 | 30 | 5 |
| Home Wood Heating | 82 | 80 | 89 | 82 | 130 | 113 | 62 | 135 | 95 | 219 | 121 | 126 |
| Industry | 880 | 768 | 465 | 327 | 231 | 270 | 265 | 169 | 128 | 122 | 127 | 19 |
| Open Burning | 163 | 179 | 169 | 390 | 293 | 277 | 268 | 341 | 268 | 321 | 279 | 115 |
| Slash Burning | 8 | 31 | 41 | 33 | 25 | 3 | 5 | 16 | 7 | 5 | 7 | 5 |
| Miscellaneous | 66 | 75 | 95 | 109 | 137 | 61 | 77 | 101 | 79 | 52 | 57 | 25 |
| Unknown | 110 | 97 | 105 | 124 | 59 | 25 | 12 | 25 | 17 | 14 | 35 | 13 |
| Total | 1525 | 1719 | 1643 | 1496 | 1011 | 815 | 734 | 839 | 645 | 806 | 674 | 313 |

* Year-to-date.

OPEN BURNING LETTER PERMITS: 04/01/15 -- 04/30/15

There were no Special Letter Permits issued in April.

ENFORCEMENT: 04/01/15 to 04/30/15

| Category of Violation | New | Follow-Up Action | Pending | Closed | Total |
|-----------------------|----------|------------------|-----------|----------|-----------|
| Asbestos | 1 | - | 4 | - | 5 |
| Industrial | 1 | - | 2 | - | 3 |
| Open Burning | 1 | 1 | 9 | 6 | 17 |
| Fugitive Dust | - | - | - | - | - |
| Home-Wood Heating | - | - | 2 | - | 2 |
| Totals | 3 | 1 | 17 | 6 | 27 |

Attachment No. 4: Enforcement activities during these reporting periods for case details.

For perspective, here is how the number of enforcement actions year-to-date in 2015 compares to previous years:

| Year | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015* |
|---|------|------|------|------|------|------|------|------|------|------|------|-------|
| Notices of Non-compliance and Warnings | 52 | 55 | 51 | 48 | 57 | 37 | 57 | 64 | 41 | 51 | 36 | 17 |
| Notices of Violation with Civil Penalties | 31 | 39 | 33 | 47 | 36 | 28 | 39 | 42 | 29 | 23 | 28 | 13 |

* Year-to-date.

ASBESTOS ABATEMENT

During April, LRAPA received 37 notices of asbestos removal projects, none of which were schools.

For perspective, here is how the number of asbestos abatement notices filed, how many were schools and the number of notices inspected year-to-date in 2015 compares to previous years:

| Year | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015* |
|--|------|------|------|------|------|------|------|------|------|------|------|-------|
| Total Asbestos Abatement Notices | 372 | 453 | 449 | 413 | 396 | 408 | 370 | 359 | 324 | 351 | 352 | 135 |
| School Asbestos Abatement Notices (NESHAP) | 28 | 41 | 54 | 67 | 69 | 64 | 70 | 61 | 53 | 24 | 21 | 1 |
| Number of Asbestos Abatements Inspected | 84 | 70 | 75 | 85 | 76 | 119 | 107 | 106 | 90 | 96 | 67 | 25 |

* Year-to-date.

PERMITTING (TITLE V and ACDP): 04/01/15 to 04/30/15

LRAPA currently permits 18 Title V sources and approximately 300 Air Contaminant Discharge Permits (ACDP). Below are the total numbers of permit activities that are new, renewals, modifications, construction approvals, registration application's, terminated and/or issued permits the operations staff currently have in process.

| Category of Permit | Title V | ACDP | Registrations | Totals |
|--------------------|---------|------|---------------|--------|
| New | - | 5 | - | 5 |
| Renewals | 6 | 14 | - | 20 |
| Modifications | 1 | 10 | - | 11 |
| Constructions | - | - | - | - |
| Registrations | - | - | - | - |
| Terminated Permits | - | 4 | - | 4 |
| Issued Permits | 2 | 13 | - | 15 |
| Totals | 9 | 46 | - | 55 |

UPDATE ON SOME NATIONAL ISSUES OF LRAPA INTEREST

The National Association of Clean Air Agencies (NACAA, the organization of state and local air directors) publishes a *Washington Update* every Friday. The following excerpts relate to some national issues reported since the April 2015 LRAPA Board meeting, and that may be of interest to the LRAPA Board of Directors and other readers of this Director's Report. I organized the updates under the topics of:

- Residential Woodsmoke and Particulate Matter Strategies;
- Cleaner Fuels and Cleaner Vehicles;
- Air Toxics;
- Ozone and Carbon Monoxide Health Standards;
- Federal-State-Local Partnerships and National Air Grant Funding; and
- Energy Policies and Climate Change.

Residential Woodsmoke and Particulate Matter Strategies

EPA Administrator Testifies at Senate Appropriations Hearing (April 29, 2015) – EPA Administrator Gina McCarthy testified before the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies regarding the Administration's FY 2016 budget request for EPA. The Administrator defended the President's budget, which includes a total of \$8.6 billion for EPA and \$268.2 million in grants to state and local air pollution control agencies under Sections 103 and 105 of the Clean Air Act. Administrator McCarthy highlighted the funds recommended to address climate change and improve air quality, totaling \$1.1 billion, as well as the \$4 billion Clean

Power Incentive Fund, which is outside of EPA's budget, but would support state efforts to reduce carbon emissions from the power sector. Several members of the subcommittee – including Senate Majority Leader Mitch McConnell (R-KY) and the Subcommittee Chair Senator Lisa Murkowski (R-AK) – strongly criticized EPA's proposed Clean Power Plan regulations and the expected impact on the coal industry. McCarthy also fielded questions about the agency's recent standards to address wood-burning stoves and agreed to look into a possible wood-stove trade-in program recommended by Senator Patrick Leahy (D-VT). For further information:

<http://www.appropriations.senate.gov/hearings-and-testimony/interior-subcommittee-hearing-review-fy2016-epa-budget>

NACAA Holds Spring Membership Meeting (April 27-29, 2015) – Over 110 local, state and federal air quality officials gathered in Providence, Rhode Island for NACAA's 2015 Spring Membership Meeting. Highlights of the meeting included an open discussion with EPA Acting Assistant Administrator Janet McCabe; in-depth focus on implementation of the ozone and sulfur dioxide National Ambient Air Quality Standards; a review of tools and resources related to 111(d) to assist state and local air agencies; the Executive Director's report summarizing major legislative and regulatory issues and NACAA initiatives; and sessions on addressing the SIP backlog and processing 111(d) state plans, interstate transport (eastern and western), environmental justice, advances in electric vehicles, Next Generation Compliance and local air pollution issues. In addition, the association honored Arturo Blanco, former NACAA Co-President and Training Committee Co-Chair, who has left his position as Houston's air director to become Director of Environmental Justice and Tribal Affairs for EPA Region 6. The NACAA Spring Meeting was followed by a Wednesday afternoon NESCAUM-WESTAR-NACAA Workshop on Accelerating the Retirement of Old Wood-Burning Devices, in which 35 air officials took part. Presentations from the NACAA Spring Meeting are available on Air Web; presentations from the workshop will be available there shortly. For further information: <http://www.4cleanair.org>

ALA Publishes *State of the Air 2015* (April 29, 2015) – The American Lung Association (ALA) released *State of the Air 2015*, its annual “national report card” in which the organization grades and ranks air quality in cities and counties across the country. In this, its sixteenth such report, ALA used ozone and particulate matter (PM) air quality monitoring data for 2011, 2012 and 2013 to calculate the average numbers of “unhealthy days” for ozone and 24-hour PM and annual averages for year-round PM. Based on its methodology, ALA concludes that nearly 44 percent of people in the U.S. live in counties that have unhealthful levels of either ozone or PM and that 5.6 percent live in 12 counties with unhealthful levels of all three pollutants (ozone, 24-hour PM and annual PM). ALA further concludes that the best progress occurred in the continued reduction in annual PM pollution in the eastern U.S., which the organization attributes to cleaner power plants and cleaner diesel fleets. ALA's results for ozone are mixed, with numerous cities, especially in California, receiving better grades than in the 2014 *State of the Air* report, but with many others experiencing more unhealthy days. ALA also offers several recommendations that it believes are necessary for safeguarding the air: EPA must strengthen the National Ambient Air Quality Standards for ozone and issue a strong final Clean Power Plan rule, and Congress must ensure that protections under the Clean Air Act remain effective and enforced and adequately fund EPA and the states so they can monitor and protect the nation from air pollution. For further information:

<http://www.stateoftheair.org/>

Cleaner Fuels and Cleaner Vehicles

Economist Examines Possible Paths Forward for RFS (April 15, 2015) – The Columbia University Center on Global Energy Policy released a study in which Harvard economist James Stock reflects on potential paths forward for the federal Renewable Fuel Standard (RFS). Stock contends that “America’s renewable fuels policy is at a crossroads,” disparaged by some as an inefficient program that increases costs for fuel suppliers and consumers and lauded by others as a valuable mechanism for reducing U.S. dependence on foreign oil and helping battle climate change. The author says that although the goals of the RFS remain as valid as when the program was enacted in 2005 and expanded in 2007, the program faces various challenges, including that it imposes costs while failing to deliver support for the low-carbon second-generation biofuels that are necessary for success. Therefore, he argues that the RFS program must be reformed. Stock identifies three possible paths forward, concluding that the best option is one under which EPA would expand the amount of renewable fuels in the fuel supply consistent with the Energy Independence and Security Act of 2007 and, in tandem, take steps, both by reforming the RFS and by taking additional actions outside the RFS, to increase policy certainty, promote the sale of higher-level ethanol blends like E85, reduce the volatility of Renewable Identification Number pricing and increase the economic efficiency of the RFS. According to Stock, some of these steps could be taken administratively while others would require legislation. For further information:

http://energypolicy.columbia.edu/sites/default/files/energy/Renewable%20Fuel%20Standard_A%20Path%20Forward_April%202015.pdf

Bipartisan Group of 37 Senators Calls Upon EPA to Maintain Strong RFS

(April 23, 2015) – Thirty-seven U.S. Democratic and Republican Senators sent a letter to EPA Administrator Gina McCarthy urging her to implement the federal Renewable Fuel Standard (RFS) as it was enacted into law in 2007, particularly as it relates to the establishment of domestic biofuel targets. Last year, EPA proposed a rule invoking its authority to limit, rather than increase, biodiesel volumes for 2014. That proposal has not been finalized. In their letter, the 37 Senators contend that the RFS has effectively spurred alternative fuels and economic development, strengthened agriculture markets and created hundreds of thousands of jobs, many of them in rural areas. In addition to ensuring continuation of this progress, the Senators say that setting strong biofuel volume requirements for 2014 and later years will “provide the certainty needed to unlock future investments in renewable fuels and necessary infrastructure, reduce our nation’s dependence on foreign sources of energy, and drive innovation and progress toward cellulosic, biodiesel, recycled waste, algal, and other advanced biofuels.” Accordingly, the Senators urge Administrator McCarthy to issue a final rule that will ensure continued work toward achieving the intended long-term economic and renewable energy goals. For further information:

<http://www.grassley.senate.gov/news/news-releases/grassley-bipartisan-groups-senators-call-strong-renewable-fuel-standard>

National Academies Examine Ways to Advance Development and

Acceptance of PEVs (April 22, 2015) – The Transportation Research Board of the National Academies published a report in response to a 2012 congressional request to identify barriers to the introduction of electric vehicles. In *Overcoming Barriers to Deployment of Plug-In Electric Vehicles*, the authors review the characteristics and capabilities of electric vehicle technologies, including cost, performance, range, durability and safety and evaluate how these factors potentially create barriers to widespread deployment. The report also includes an overview of the status of plug-in electric vehicles (PEVs) and offers recommendations to further develop this technology and increase the attractiveness of PEVs to consumers. Among the suggestions provided

are ones for Congress to extend the federal tax credit for electric vehicles and consider making it a rebate at the point of sale and to invest in research to reduce costs and extend battery life. For further information: http://www.nap.edu/openbook.php?record_id=21725

Air Toxics

NACAA Comments on EPA's Proposal to Retain Current Lead NAAQS (April 6, 2015) –

NACAA submitted comments to EPA on the agency's January 5, 2015 proposed National Ambient Air Quality Standards (NAAQS) for lead. After undertaking review of the lead NAAQS set in 2008 (at which time the agency lowered the 1978 standard from 1.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 0.15 $\mu\text{g}/\text{m}^3$, primary and secondary), EPA is proposing to retain the current standard unchanged. For this current review, EPA concluded in its draft policy assessment, and the Clean Air Scientific Advisory Committee agreed (June 4, 2013), that there are substantial data gaps and uncertainties such that the current scientific evidence does not support a NAAQS revision at this time. NACAA has a history of encouraging EPA to "follow the science" when setting and revising NAAQS. In this case, the scientists agree there is insufficient scientific data to support a NAAQS revision. Therefore, in its comment letter, NACAA supports EPA's proposal to retain the current NAAQS. For further information: http://www.4cleanair.org/sites/default/files/Documents/NACAA-PB_NAAQS_Comments-040615-1.pdf

Refrigeration Company to Pay over \$3 Million for Releases of Toxic Gases (April 13, 2015) – A

refrigeration company has entered into a proposed settlement with the U.S. Department of Justice for charges related to leaks of toxic gases at its facility in Theodore, Alabama (*United States of America v. Millard Refrigerated Services, LLC* Civil Action No. 15–186). As part of the settlement under the Clean Air Act, the Comprehensive Environmental Response Compensation and Liability Act and the Emergency Preparedness and Community Right-To-Know Act, the company will pay a little over \$3 million in civil penalties for allowing three releases of anhydrous ammonia, a highly toxic substance, during its operations over a three-year period. The third release, in August 2010, generated more than 32,000 pounds of anhydrous ammonia and resulted in 154 hospitalizations. Following the third release, the company closed the refrigerated part of the facility. The proposed settlement, lodged with the United States District Court for the Southern District of Alabama, is subject to a 30-day public comment period before becoming final. For further information: <http://www.gpo.gov/fdsys/pkg/FR-2015-04-13/pdf/2015-08391.pdf>

Study Shows Possible Endocrine Disruption Due to Ambient Levels of BTEX (April 16, 2015) –

A study by researchers at the University of Colorado Boulder concludes that four chemicals often found in ambient air may be responsible for various adverse health effects, including endocrine disruption. In a study published in *Environmental Science & Technology*, the researchers report that BTEX – benzene, toluene, ethylbenzene, and xylene – at ambient concentrations may be linked to such health effects as “sperm abnormalities, reduced fetal growth, cardiovascular disease, respiratory dysfunction, asthma, sensitization to common antigens, and more.” Furthermore, at exposures below reference concentrations, the chemicals may be endocrine disruptors. BTEX are often used in adhesives, paints, rubber, pesticides and gasoline formulations. Additionally, they are emitted as the result of the combustion of gasoline and diesel fuels. For further information:

<http://pubs.acs.org/doi/abs/10.1021/es505316f>

Ozone and Carbon Monoxide Health Standards

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<http://www.stateoftheair.org/>

Federal-State-Local Partnerships and National Air Grant Funding

NACAA Submits Testimony to Senate on EPA’s FY 2016 Budget (April 14, 2015) – NACAA submitted testimony to the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies regarding the Administration’s proposed FY 2016 budget for EPA, including grants to state and local air pollution control agencies under Sections 103 and 105 of the Clean Air Act. The President’s request included \$268.2 million for Sections 103 and 105 grants, which is an increase of \$40 million above FY 2015 levels. Of the proposed increase, \$25 million is targeted for implementation of the Clean Power Plan under Section 111(d) and \$15 million is for other continuing state and local air quality implementation activities. In the testimony, NACAA expressed support for the increase in the budget, but recommended that state and local air pollution control agencies be given the flexibility to determine how best to use the additional funds. NACAA also requested that grant funds for fine particulate matter monitoring not be shifted to Section 105 authority, as EPA is proposing, but remain under Section 103 authority. Finally, NACAA expressed support for the \$4-billion Clean Power State Incentive Fund and funding for the Diesel Emission Reduction Act (DERA) program, both of which are included in the President’s request. For further information:

http://www.4cleanair.org/sites/default/files/Documents/Testimony_Senate_NACAA_FY16.pdf

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association honored Arturo Blanco, former NACAA Co-President and Training Committee Co-Chair, who has left his position as Houston's air director to become Director of Environmental Justice and Tribal Affairs for EPA Region 6. The NACAA Spring Meeting was followed by a Wednesday afternoon NESCAUM-WESTAR-NACAA Workshop on Accelerating the Retirement of Old Wood-Burning Devices, in which 35 air officials took part. Presentations from the NACAA Spring Meeting are available on Air Web; presentations from the workshop will be available there shortly. For further information: <http://www.4cleanair.org>

House and Senate Conferees Agree on Report Language for FY 2016 Budget Resolution (April 29, 2015) – House and Senate conferees agreed on report language for the “Concurrent Resolution on the Budget for Fiscal Year 2016” to accompany S. Con. Res. 11. The non-binding resolution is intended to establish FY 2016 funding targets for the various appropriations subcommittees. Both the House and Senate must now adopt the agreed-upon version of the resolution in its final form and, since it is a resolution rather than a law, it is not subject to veto by the President. The resolution and the report language include provisions addressing EPA's programs on greenhouse gas emissions that were incorporated during both the House and Senate consideration of the resolution. For example, from the House version, provisions are included that seek to limit EPA's regulatory activities, especially the Clean Power Plan (see *Washington Update* of March 16-20, 2015). It promotes federal regulatory reform and calls for Congress to enact legislation that requires additional cost-benefit analyses (including retrospectively), Congressional approval of new major regulations and regulatory impact analyses. From the Senate version, provisions include opposition to the creation of a federal carbon tax, prohibitions on regulations that would reduce the reliability of the electricity grid and a prohibition of EPA regulations “which may include a prohibition on withholding highway funds from States that refuse to submit State Implementation Plans required under the Clean Power Plan of the Agency” (see *Washington Update* of March 23-27, 2015). For further information: http://www.budget.senate.gov/republican/public/index.cfm?a=Files.Serve&File_id=5389a308-6d7b-45fc-b8e7-e6db453eaf9a

EPA Issues Final National Program Manager Guidance for FY 2016-2017 (April 30, 2015) – EPA has issued its FY 2016-2017 National Program Manager (NPM) Guidance, which contains information for the next two years on the agency's priorities and activities, including for state and local air pollution control agency grantees. The NPM guidance is intended to reflect the agency's strategic plan goals. NACAA provided comments on March 23, 2015 on the draft NPM guidance, primarily expressing support for the Administration's proposed increase of \$40 million in FY 2016 grants for state and local air pollution control agencies (for a total of \$268.3 million), but recommending flexibility with respect to how these agencies spend the increased funds. Additionally, NACAA recommended that PM2.5 monitoring funds remain under Section 103 authority (where matching funds are not needed), rather than moving them to Section 105 authority, as the budget request intends. Included in the materials accompanying the final guidance is a document listing the agency's response to the comments it received on its draft. According to the document, EPA made minor adjustments in response to NACAA's comments, but did not change the guidance to reflect additional flexibility with respect to the use of grant funds or retention of the PM2.5 monitoring funds under Section 103. For further information: <http://www2.epa.gov/planandbudget/national-program-manager-guidances>

EPA Administrator Testifies at Senate Appropriations Hearing (April 29, 2015) – EPA Administrator Gina McCarthy testified before the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies regarding the Administration's FY 2016 budget request for EPA. The Administrator defended the President's budget, which includes a total of \$8.6 billion for

EPA and \$268.2 million in grants to state and local air pollution control agencies under Sections 103 and 105 of the Clean Air Act. Administrator McCarthy highlighted the funds recommended to address climate change and improve air quality, totaling \$1.1 billion, as well as the \$4 billion Clean Power Incentive Fund, which is outside of EPA's budget, but would support state efforts to reduce carbon emissions from the power sector. Several members of the subcommittee – including Senate Majority Leader Mitch McConnell (R-KY) and the Subcommittee Chair Senator Lisa Murkowski (R-AK) – strongly criticized EPA's proposed Clean Power Plan regulations and the expected impact on the coal industry. McCarthy also fielded questions about the agency's recent standards to address wood-burning stoves and agreed to look into a possible wood-stove trade-in program recommended by Senator Patrick Leahy (D-VT). For further information:

<http://www.appropriations.senate.gov/hearings-and-testimony/interior-subcommittee-hearing-review-fy2016-epa-budget>

Energy Policies and Climate Change

Bloomberg Predicts Less Coal Use and Carbon Emissions, More Natural Gas and Renewables in 2015 Energy Outlook (April 8, 2015) – A Bloomberg New Energy Finance (BNEF) white paper predicts that 2015 could be a record year for coal retirements, new renewable capacity and natural gas utilization by the power sector. According to BNEF, all three trends will reduce carbon emissions in 2015 and, unless extreme summer heat waves increase generation demand, could lead to the lowest carbon emissions from the power sector in 20 years. In particular, according to the white paper, wind and solar power projects will add 18.3 Gigawatts (GW) of new generating capacity in 2015, setting a new record. During the previous record year, 2012, the U.S. added 17.1 GW of new wind and solar capacity. Though BNEF predicts significant growth for renewables, it describes the coal sector as “entering an unprecedented period of retirements.” Due to a combination of aging units, the 2015 Mercury and Air Toxics Standard compliance deadlines and low natural gas prices, BNEF expects that 23 GW of coal generation will retire this year. At the same time, BNEF predicts that natural gas utilization will increase to compensate for the loss of coal-fired generation and that 2015 may show the largest use of natural gas ever by the power sector. Bloomberg attributes this increase to low natural gas prices and the availability of efficient, combined-cycle natural gas turbines. For further information:

http://www.4cleanair.org/sites/default/files/Documents/BNEF_2015-02_AMER_US-Power-Fleet-De-Carbonisation-WP.pdf

Parties Argue Before D.C. Circuit Over Proposed Clean Power Plan Rule (April 16, 2015) – A three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit heard oral arguments over whether it should block EPA from finalizing its Clean Power Plan in related cases challenging the proposed rule (*In re Murray Energy Corp.*, No. 14-1112 et al. and *West Virginia v. EPA*, No. 14-1146). Attorneys for Murray Energy Corp., West Virginia, and state and industry intervenors argued that the court should issue an “extraordinary writ” or other relief barring EPA from finalizing the rule, on grounds that the Clean Air Act's statutory text bars the agency from regulating CO₂ emissions from power plants under CAA Section 111(d) because the source category is already regulated under Section 112. In their questioning, Judges Robert Griffith and Brett Kavanaugh expressed concern that taking the “unprecedented” step of halting a non-final rule would result in a judicially unmanageable “morass” of challenges to other proposed rules. They queried what differentiates the Clean Power Plan from other important proposed rules such that it warrants the “extraordinary” relief requested by petitioners. Attorneys for EPA and states and NGOs supporting the agency asserted that the challenge is both unripe and barred by the Clean Air Act's judicial review provisions in CAA Section 307. Arguing for EPA, Justice Department attorney Brian

Lynk emphasized that the court will not know the Administrator's final legal rationale underlying the rule until it is finalized. Judge Karen LeCraft Henderson appeared more amenable to petitioners' arguments on the timing of the challenge, observing that EPA has already concluded that it has the legal authority to promulgate the rule, and "that's not going to change." Questions regarding the petitioners' statutory arguments centered on the differing House and Senate changes to Section 111(d) in the 1990 CAA amendments. The House version appears to bar EPA from regulating a source category under Section 111(d) if that source category is already regulated under Section 112 (as power plants are under the Mercury and Air Toxics Standards). The Senate version would allow regulation of the same source category under both sections as long as each is used to address a different pollutant. Appearing for EPA, attorney Amanda Shafer Berman argued forcefully that, in the face of conflicting statutory provisions, the court is obligated to defer to the agency's interpretation regarding how to reconcile those provisions. Harvard Law Professor Laurence Tribe, appearing for Peabody Energy and petitioner-intervenor states, asserted that no statutory ambiguity exists and that EPA is treating "a non-executable, moot provision" (the Senate-passed amendment of Section 111(d)) as if it were law. EPA's assertion of authority in promulgating the proposed rule is unconstitutional, Tribe argued. For further information:

<http://www.cadc.uscourts.gov/recordings/recordings.nsf/>

House Energy and Commerce Committee Debates Proposal to Limit EPA Clean Power Plan (April 14, 2015) – The House Energy and Commerce Subcommittee on Energy and Power held a hearing to consider draft legislation allowing states to delay or avoid compliance with EPA's proposed Clean Power Plan (CPP). The draft legislation, entitled the Ratepayer Protection Act of 2015, would allow states to defer their CPP compliance deadlines until after all legal challenges to the rule are resolved. Further, the bill would permit any governor to opt out of compliance if he/she determines that the CPP would harm ratepayers or adversely affect electric reliability in the state. EPA Acting Assistant Administrator Janet McCabe was the sole witness on the hearing's first panel, describing the proposed bill as premature, unnecessary and harmful. According to McCabe, "Although members of Congress have routinely expressed concern with EPA's rules and their legality over the years, we are not aware of any instance in the last 25 years when Congress has enacted legislation to stay implementation of an air rule during judicial review. To do so here, before the rule is even final, would be an unprecedented interference with the EPA's efforts to fulfill its duties under the Clean Air Act – an Act that was written and passed by Congress with bipartisan support and that has brought improved public health to millions of Americans for decades." Subcommittee Chairman Ed Whitfield (R-KY) challenged McCabe's testimony in his opening comments. "Anyone familiar with the Clean Air Act should not in any way be surprised that Congress would try to stop, slow down or, as Ms. McCabe said, interfere with efforts to rush implementation of the rule for existing source performance for electric generating units." Whitfield added that EPA had overstepped its legal authority with the CPP proposal, suggesting "people are asking Congress for help in reigning in this agency." The hearing's second panel included six witnesses from a mixture of business and industry groups, a power company, the state of Massachusetts and the Analysis Group. Most focused on the potential impacts of the CPP. Business, industry and utility witnesses included Eugene Trisko, Energy Economist and Attorney on behalf of the American Coalition for Clean Coal Electricity; Lisa Johnson, CEO and General Manager of the Seminole Electric Cooperative in Florida; Kevin Sunday, Manager of Government Affairs for the Pennsylvania Chamber of Business and Industry; and Paul Cicio, President of the Industrial Energy Consumers of America. They predicted that the CPP would force consumers to pay more for electricity, threaten electrical grid reliability and harm state economies. The remaining two witnesses took a more optimistic view of the proposed rule. The Analysis Group's Susan Tierney argued that the CPP would not jeopardize electrical reliability, have only modest impacts on electricity rates and

provide long-term economic opportunities. Melissa Hoffer, Assistant Attorney General and Chief of the Massachusetts Attorney General's Environmental Bureau, defended the legality of the CPP, concluded that the proposed Ratepayer Protection Act would weaken the Clean Air Act, and stated that the CPP would lead to cost-effective reductions in greenhouse gas emissions. For further information: <http://energycommerce.house.gov/hearing/epa%E2%80%99s-proposed-111d-rule-existing-power-plants-and-hr-ratepayer-protection-act>

U.S. Greenhouse Gas Emissions Grew in 2013 (April 15, 2015) – According to EPA's annual greenhouse gas (GHG) inventory, U.S. GHG emissions increased by 2 percent between 2012 and 2013. The 2013 emissions total, however, remained 9 percent below 2005 levels. EPA attributed the 2013 increase to multiple factors, including a shift toward coal-fired energy generation and away from natural gas, cold winter conditions that increased heating needs and greater industrial production across multiple sectors. The agency also recorded an increase in vehicle sector emissions compared to 2012. The U.S. inventory is compiled each year to quantify human-caused GHG sources and sinks for submittal to the U.N. Framework Convention on Climate Change (UNFCCC). The UNFCCC charter calls for participating countries to provide annual emissions inventories based on an internationally agreed to methodology and organization. The full report, entitled *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2013*, is available online. For further information: <http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html>

NERC Requests Clean Power Plan Delay (April 21, 2015) – The North American Electric Reliability Corporation (NERC), a non-profit organization tasked with ensuring U.S. electric grid reliability, has released an assessment of EPA's proposed Clean Power Plan (CPP), recommending that EPA delay the CPP's 2020 interim compliance deadline. In its report, NERC concluded that the 1) proposed CPP will accelerate shifts toward natural gas and renewable power generation already underway, requiring additional transmission planning and analysis; (2) remaining coal-fired generation may shift away from base-load supply to seasonal peaking, potentially raising plant operating costs and risking additional retirements; and (4) CPP will accelerate shifts toward gas-fired generation and require additional infrastructure and pipeline capacity. The report, entitled *Potential Reliability Impacts of EPA's Proposed Clean Power Plan: Phase I*, acknowledges that its conclusions could be affected by the final CPP rule, expected this summer, and recommends additional analysis once the rule is finalized and as states begin submitting implementation plans. For further information: http://www.4cleanair.org/sites/default/files/Documents/NERC_Reliability_Assessment_of_CPP_April_2015.pdf

ACEEE Releases Clean Power Plan Compliance Tool (April 22, 2015) – The American Council for an Energy Efficient Economy (ACEEE) has released a new tool to help Clean Power Plan (CPP) stakeholders weigh the costs and mitigation potential of different compliance options. The tool, called the State and Utility Pollution Reduction (SUPR) Calculator, allows users to build state compliance scenarios based on 19 different CO₂-reducing technologies and policies. Among the mitigation measures included in SUPR are annual energy savings targets, building energy codes, performance contracting, combined heat and power, increased renewable generation, fuel-switching and various emissions control options for coal-fired electric generating units. Within a compliance scenario, SUPR estimates the costs of each policy as well its contribution toward meeting the state CPP emissions goal. For further information: <http://aceee.org/research-report/e1501>

PUBLIC INFORMATION

On-Going

- Asbestos

Staff sends out asbestos informational packages to Lane County residents who received building permits for remodeling projects and new homeowners. Residents are directed to contact LRAPA with any questions. Residents of the cities of Eugene, Springfield and Coburg now receive information with their permits. LRAPA will keep the local planning departments and contractors, upon request, stocked with the fliers so that they can help get the word out to residents who might encounter asbestos-containing materials while remodeling their homes. *(Jo)*

- General

Staff mails new homeowner packages for home sales, including materials about the home wood heating, open burning rules, asbestos and home remodeling. Eugene and Springfield planning departments provide names and addresses of new home owners on a periodic basis. Residents are directed to contact LRAPA with any questions. Staff mailed out over 300 packets for March home sales. *(Jo)*

Staff had no media contact in April. *(Jo)*

Staff had no press releases in April. *(Jo)*

City of Oakridge Curtailment Program. *(Jo)*

Annual Report 2014. *(Jo)*

Air Quality Monitor Tour in Amazon Park scheduled for May 1st. *(Jo)*

Completed

Air Quality Awareness Week Events. *(Jo)*

Earth Day Lobby Day in Salem with Oregon Environmental Council. *(Jo)*

Earth Day in the Park Event. *(Jo)*

UPCOMING LRAPA BOARD AGENDA ITEMS

This schedule outline is a preview of upcoming agenda items, and we will update it as the time frames for additional issues become firmer.

April 2015:

- ~~Second budget committee meeting on proposed budget for FY2016.~~
- ~~Dashboard report.~~
- ~~Proposed new format for performance review of Director.~~

May 2015:

- Third budget committee meeting on proposed budget for FY2016.
- Asbestos case enforcement settlement and Stipulated Final Order.

June 2015:

- Adopt FY2016 budget.
- Appoint or reappoint advisory committee members with expired terms.
- Discussion of extended home wood heating season (October-March).

July 2015:

- Discussion of extended home wood heating season (October-March).
- Review progress and update strategic priorities.

August 2015: No meeting.

September 2015:

- Preliminary discussion of a succession plan.
- Vehicle emission testing update – DEQ presentation.

October 2015:

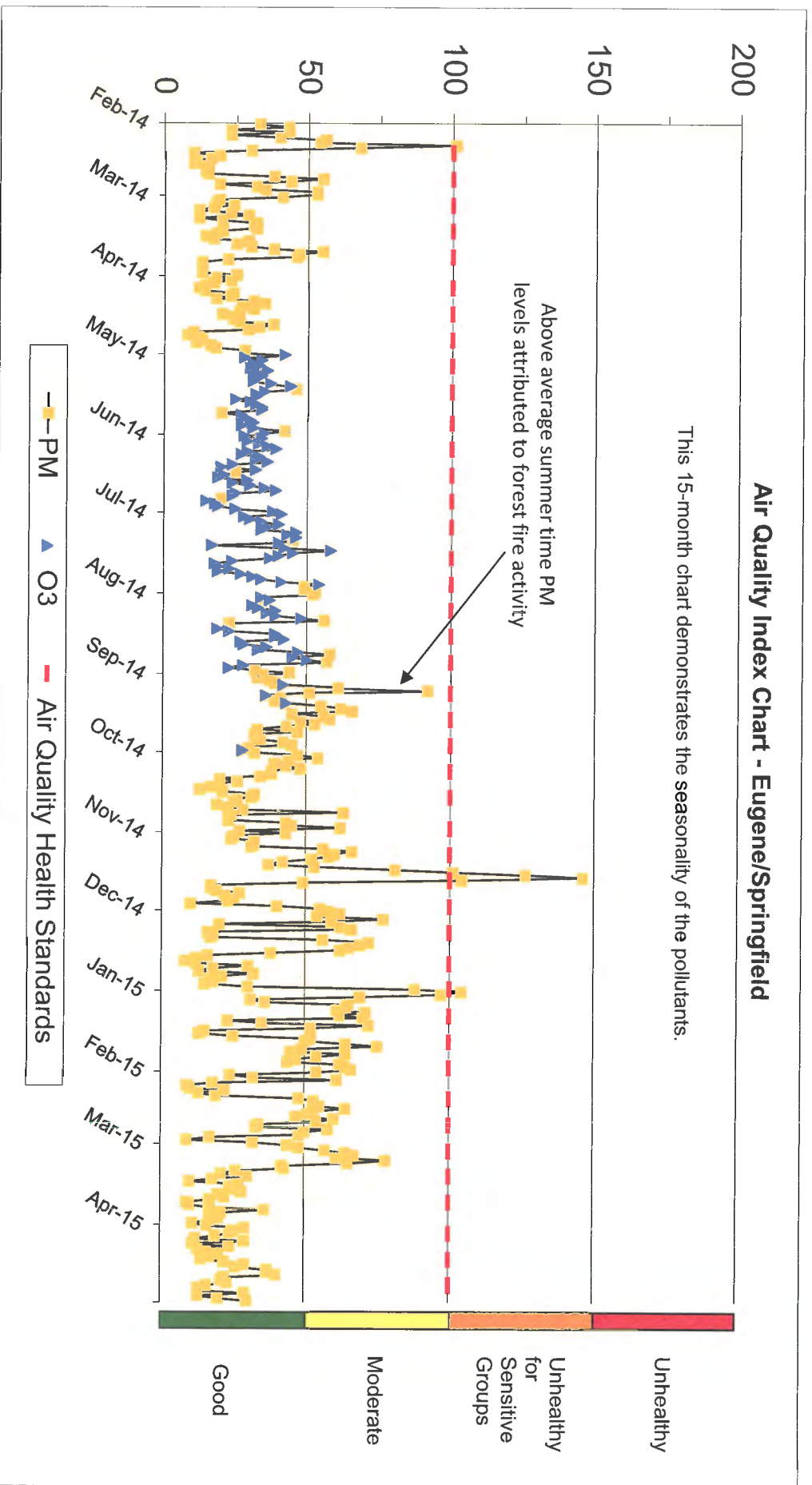
- Dashboard report.
- Review director performance for FY2015.

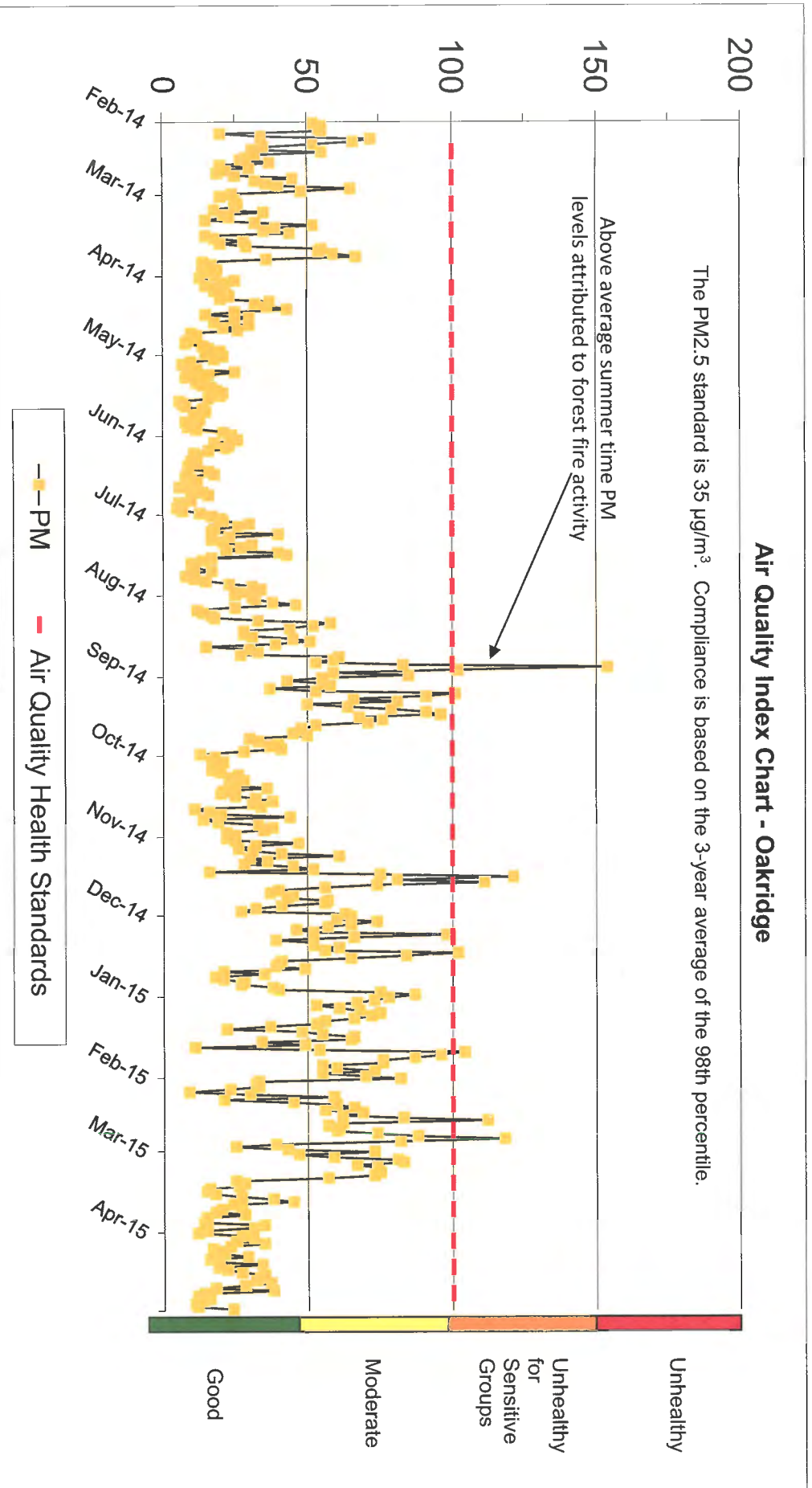
November 2015:

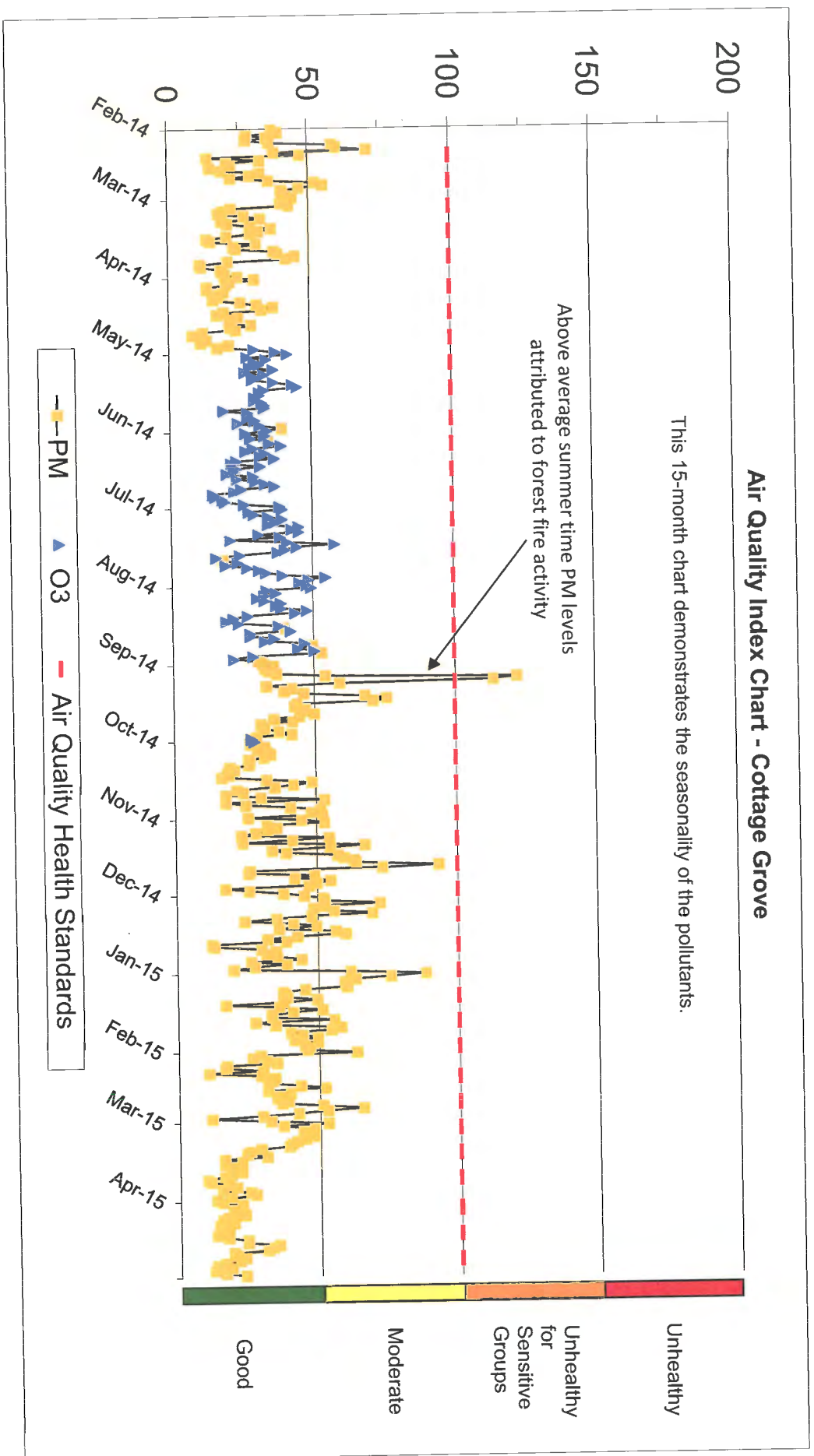
- Auditor review of FY2015 financials.

December 2015: No meeting.

MLH/cmw







NEW/OPEN ENFORCEMENT ACTIONS
04/01/2015 -- 04/30/2015
Report of open and actions initiated since last report

NEW (New Enforcement actions issued): 04/01/2015 -- 04/30/2015

1. ECKSTINE, VINCENT (CRESWELL)
 - A. Violation: Conducting the open burning of prohibited materials (plastics, asphalt roofing material)
 - B. Initial Action Taken: NON #3572 issued 04/02/2015
 - C. Subsequent Action: PENDING
 - D. Resolution: PENDING
2. BARRON, ADAM (MARCOLA)
 - A. Violation: Asbestos survey requirements; demolition requirements; notification requirements; abatement work practice requirements; open burning of prohibited materials; open burning of construction/demolition debris without first obtaining appropriate permits
 - B. Initial Action Taken: NON #3573 issued 04/24/2015
 - C. Subsequent Action: PENDING
 - D. Resolution: PENDING
3. EMERALD CABINETS INC. (EUGENE)
 - A. Violation: Failure to pay Basic ACDP fees required in Table 2 of Title 37, Section 37-0020
 - B. Initial Action Taken: NON #3575 issued 04/07/2015
 - C. Subsequent Action: PENDING
 - D. Resolution: PENDING

ACTIONS PERFORMED (Enforcement actions issued prior to 04/01/2015 with subsequent action in the current reporting period):

1. STEINMAN, PATRICK R. (EUGENE)
 - A. Violation: Conducting open burning when prohibited; open burning such as to create a hazard to public safety; conducting open burning where prohibited (Eugene city limits)
 - B. Initial Action Taken: NON #3501 issued 08/22/2014
 - C. Subsequent Action: NCP #2014-3501 (\$600) issued 09/19/2014: request for hearing scheduled and held 12/17/14; 12/31/14, Hearing's Official found in favor of LRAPA with a reduced Magnitude of the violations to reduce the civil penalty from \$600 to \$250,; 12/31/15 letter sent to Respondent included Title 14, Hearing's Official Decision, Appeals Procedures handout - Respondent had 30 days to request an appeal to the LRAPA Board of Director's, no appeal filed - paid 04/07/15
 - D. Resolution: CASE CLOSED on 04/07/2015
2. HAASE, DAVID (EUGENE)
 - A. Violation: Open burning at a time when open burning was prohibited; open burning of prohibited materials (plastics, garbage); open burning of construction/demolition debris without first obtaining a letter permit from LRAPA
 - B. Initial Action Taken: NON #3553 issued 11/07/2014
 - C. Subsequent Action: NCP #2014-3553 (\$500) issued 12/12/2014: request for reduction approved and reduced to \$400 with signed SFO 14-3554 (NCP 14-3553 and NCP 14-3554 were both included with SFO 14-3554 for a total amount due of \$400) - Paid
 - D. Resolution: CASE CLOSED on 04/08/2015

3. HAASE, DAVID (EUGENE)
 - A. Violation: Open burning at a time when open burning was prohibited; open burning prohibited materials
 - B. Initial Action Taken: NON #3554 issued 11/26/2014
 - C. Subsequent Action: NCP #2014-3554 (\$300) issued 12/12/2014: request for reduction approved and reduced to \$400 with signed SFO 14-3554 (NCP 14-3553 and NCP 14-3554 were both included with SFO 14-3554 for a total amount due of \$400) - Paid
 - D. Resolution: CASE CLOSED on 04/08/2015
4. PAULSON, KELLY (MARCOLA)
 - A. Violation: Open burning at a time when open burning was prohibited; open burning of prohibited materials (household garbage, animal hair))
 - B. Initial Action Taken: NON #3564 issued 01/29/2015
 - C. Subsequent Action: NCP #2015-3564 (\$600) issued 03/06/2015: request for hearing cancelled and negotiated settlement of \$300 with signed SFO - paid
 - D. Resolution: CASE CLOSED on 04/06/2015
5. KING, KELLY M (SPRINGFIELD)
 - A. Violation: Open burning on a day when open burning was prohibited; open burning of prohibited materials (cardboard packaging, packaging tape, PVC pipe); open burning on property upon which open burning is prohibited; open burning of construction/demolition debris where prohibited
 - B. Initial Action Taken: NON #3565 issued 01/30/2015
 - C. Subsequent Action: NCP #2015-3565 (\$600) issued 03/06/2015: request for reduction approved and reduced to \$300 with signed SFO - paid
 - D. Resolution: CASE CLOSED on 04/22/2015

6. MOTTER, NED & TOTEM PALLET & CRATE (EUGENE)
 - A. Violation: Open burning within Eugene city limits;
construction/demolition/commercial open burning within the ESUGB
 - B. Initial Action Taken: NON #3566 issued 02/10/2015
 - C. Subsequent Action: NCP #2015-3566 (\$420) issued 03/06/2015: Request for
reduction approved and reduced to \$210 with signed SFO - paid
 - D. Resolution: CASE CLOSED on 04/27/2015

**PENDING (Enforcement actions issued prior to 04/01/2015 with no subsequent action in
the current reporting period):**

1. FLAKEBOARD AMERICA LIMITED - EUG MDF (EUGENE)
 - A. Violation: Failed to comply with condition no. 25 of Title V Operating Permit No.
200529 issued May 23, 2012 by failing to demonstrate formaldehyde reduction of
90% from Dryer-1
 - B. Initial Action Taken: NON #3514 issued 05/09/2014
 - C. Subsequent Action: SFO (\$4,400) issued 05/30/2014: SFO (\$4,400) issued
05/30/2014 - paid; re-test failed, addendum No. 1 to SFO for \$5,200 - Flakeboard
opted for a Supplemental Environmental Project and LRAPA approved,
Flakeboard paid LRAPA \$1,040 and Oakridge Warm Homes Program \$4,160;
Flakeboard must submit written monthly status reports and by July 1, 2015 shall
substantially complete installation of the components of the project per
Addendum No. 1 to SFO - on schedule with monthly status reports
 - D. Resolution: PENDING

2. PINCUS, AMY (DEADWOOD)
 - A. Violation: Failure to obtain an asbestos survey prior to demolition of a facility; open burning of prohibited materials (asphalt roofing material, chemically treated wood, urethane foam)
 - B. Initial Action Taken: NON #3519 issued 07/03/2014
 - C. Subsequent Action: NCP #2014-3519 (\$3,800) issued 07/31/2014: request for reduction approved and reduced to \$1,900 with signed SFO and payment schedule
 - D. Resolution: PENDING
3. JASPER WOOD PRODUCTS, LLC (JASPER)
 - A. Violation: Failure to remedy spillage and accumulation of wood waste dust from around transfer points, hoppers, machine centers and general plant site
 - B. Initial Action Taken: NON #3540 issued 09/11/2014
 - C. Subsequent Action: PENDING
 - D. Resolution: PENDING
4. C & K MARKET (VENETA)
 - A. Violation: Asbestos survey requirements; asbestos abatement projects; asbestos abatement notification requirements; asbestos abatement work practices and procedures; friable asbestos disposal requirements
 - B. Initial Action Taken: NON #3542 issued 10/22/2014
 - C. Subsequent Action: NCP #2014-3542 (\$13,500) issued 01/26/2015: request for reduction under review
 - D. Resolution: PENDING

5. RAPOLLA, BRANDON / PRC FAIRCHILD (VENETA)
 - A. Violation: Asbestos survey requirements; asbestos abatement projects; asbestos abatement notification requirements; asbestos abatement work practices and procedures; friable asbestos disposal requirements
 - B. Initial Action Taken: NON #3545 issued 10/22/2014
 - C. Subsequent Action: NCP #2014-3545 (\$13,800) issued 01/26/2015
 - D. Resolution: PENDING

6. HEFNER, GENE (DORENA)
 - A. Violation: Failure to obtain from an accredited asbestos inspector a survey of a facility to determine the presence of asbestos containing material prior to demolishing the facility. Open burning at a time when open burning was prohibited, open burning of prohibited materials (asphalt roofing material, linoleum, plastics)
 - B. Initial Action Taken: NON #3550 issued 12/16/2014
 - C. Subsequent Action: NCP #2014-3550 (\$1,100) issued 01/26/2015: request for reduction approved and reduced to \$550 with signed SFO
 - D. Resolution: PENDING

7. BARTO, JIM (VENETA)
 - A. Violation: Conducting the open burning of prohibited materials (plastics, clothing, etc.)
 - B. Initial Action Taken: NON #3551 issued 11/25/2014
 - C. Subsequent Action: NCP #2015-3551 (\$325) issued 03/11/2015
 - D. Resolution: PENDING

8. RANDY CHRISTIAN (WESTFIR)
 - A. Violation: Failed to obtaining an asbestos survey by an accredited asbestos inspector prior to demolition of a facility
 - B. Initial Action Taken: NON #3555 issued 12/22/2014
 - C. Subsequent Action: PENDING
 - D. Resolution: PENDING

9. HOWARD, HARLAN (SPRINGFIELD)
 - A. Violation: Failure to attend open burning until extinguished; failure to promptly extinguish open burning that is in violation of LRAPA regulations; open burning of prohibited materials (asphalt roofing materials, plastics, carpeting); open burning of debris from demolished mobile home and outbuildings; failure to conduct asbestos survey prior to demolition
 - B. Initial Action Taken: NON #3556 issued 01/08/2015
 - C. Subsequent Action: NCP #2015-3556 (\$3,822) issued 03/06/2015
 - D. Resolution: PENDING

10. VIKING, MIKE (EUGENE)
 - A. Violation: Conducting open burning at a time when open burning was prohibited; open burning of construction/demolition/commercial debris (wooden furniture)
 - B. Initial Action Taken: NON #3557 issued 01/02/2015
 - C. Subsequent Action: NCP #2015-3557 (\$350) issued 01/27/2015: request for reduction approved for \$175 with signed SFO
Subsequent Action: SFO (\$175) issued 03/23/2015
 - D. Resolution: PENDING

11. VALENCIA, JERRY (LOWELL)
 - A. Violation: Open burning when prohibited; open burning of prohibited materials (paper products); commercial open burning without obtaining permits
 - B. Initial Action Taken: NON #3559 issued 01/14/2015
 - C. Subsequent Action: PENDING
 - D. Resolution: PENDING
12. TABER, TIMOTHY (EUGENE)
 - A. Violation: Exceeded 40% opacity from solid fuel space heating device stack
 - B. Initial Action Taken: NON #3560 issued 01/16/2015
 - C. Subsequent Action: NCP #2015-3560 (\$50) issued 02/02/2015
 - D. Resolution: PENDING
13. WILLIAMS, ROBIN (MCKENZIE BRIDGE)
 - A. Violation: Failure to attend open burning; open burning at a time when open burning was prohibited; open burning of prohibited materials (plastics)
 - B. Initial Action Taken: NON #3561 issued 01/26/2015
 - C. Subsequent Action: NCP #2015-3561 (\$550) issued 03/06/2015: request for reduction approved and reduced to \$275 with signed SFO and payment schedule
 - D. Resolution: PENDING

14. KINCAID, CLEVELAND (BLUE RIVER)
 - A. Violation: Failure to promptly extinguish illegal open burning; conducting open burning at a time when open burning was prohibited; open burning of prohibited materials (household garbage, plastics, clothing)
 - B. Initial Action Taken: NON #3562 issued 01/26/2015
 - C. Subsequent Action: NCP #2015-3562 (\$600) issued 03/06/2015: no response, Default Order Judgment (DOJ) in process for a lien on the property
 - D. Resolution: PENDING

15. GALAN, ABEL (EUGENE)
 - A. Violation: Exceeded 40% opacity from solid fuel space heating device stack
 - B. Initial Action Taken: NON #3563 issued 01/30/2015
 - C. Subsequent Action: NCP #2015-3563 (\$50) issued 03/06/2015
 - D. Resolution: PENDING

16. WELLS, RICK (DEXTER)
 - A. Violation: Open burning at a time when open burning was prohibited; open burning of prohibited materials (chemically treated wood, fencing material); open burning of construction/demolition debris without first obtaining appropriate permits
 - B. Initial Action Taken: NON #3567 issued 02/13/2015
 - C. Subsequent Action: PENDING
 - D. Resolution: PENDING

17. DAVIS, NYLOTIS J. (SPRINGFIELD)

- A. Violation: Open burning of prohibited materials; open burning on a day when open burning was prohibited and in Springfield city limits on lot less than 1/2 acre in size; unattended open burning and Respondent failed to extinguish materials
- B. Initial Action Taken: NON #3570 issued 03/10/2015
- C. Subsequent Action: PENDING
- D. Resolution: PENDING

18. SZTYMELSKI, ANDREW (EUGENE)

- A. Violation: Failure to attend open burning; failure to promptly extinguish open burning that was illegal; open burning when prohibited; open burning of prohibited materials (business documents); open burning within the Eugene city limits; commercial open burning where prohibited
- B. Initial Action Taken: NON #3571 issued 03/20/2015
- C. Subsequent Action: PENDING
- D. Resolution: PENDING