



**J.H. Baxter & Co**  
**Simple Air Contaminant Discharge Permit (Simple ACDP)**  
**2023 Renewal and Modification**

## **Public Hearing and Comment Summary**

On Tuesday, May 9, 2023, beginning at approximately 5:25pm, an informational session and public hearing was held in-person at the Eugene Public Library and remotely over Zoom for the modification and renewal that changes the permit type from a Standard to a Simple ACDP for J.H. Baxter & Company (200502) located at 3494 Roosevelt Boulevard, Eugene, Oregon, 97402. Two (2) members of the public were in attendance in person. One (1) member of the public was in attendance remotely based upon a count of Zoom logins, along with one (1) LRAPA Board member and one (1) reporter.

The LRAPA representatives participating in the public hearing were Steven Dietrich, Director, Travis Knudsen, Public Affairs Manager, Max Hueftle, Permit Writer and Operations Manager, and Cassandra Jackson, Compliance Inspector. Kelly Conlon, a permit writer with LRAPA who is not assigned to J.H. Baxter, served as the Presiding Officer for the hearing.

Prior to the public hearing, Mr. Knudsen conducted an informational session that discussed the location and purpose of the facility, the types of emission units at the facility, a summary of the emissions from the facility, and a summary of the proposed modifications to the permit. The public hearing was opened by Ms. Conlon, who provided a summary of the purpose and format of the hearing. The rest of the public hearing consisted of a forum for public comments.

### **Public Comments Summary and LRAPA Responses**

*[All public comments that were received for this project are a public record and are retained with the public permit review files. For purposes of this summary document, the public comments may have been edited to reduce length or consolidated with similar comments. Public comments that are not related to the review report or draft permit, such as those comments that are statements of fact or express an opinion, are not presented in this document, and do not require a response from LRAPA.]*

**Comment 1:** Several commenters stated that LRAPA should not issue the air permit for J.H. Baxter (“JHB” or “the facility”), and the facility should not be allowed to reopen and should be required to shut down.

**Response 1:** Operation of wood treatment activities is prohibited under the Simple ACDP. LRAPA must issue air permits to facilities that meet all applicable regulatory requirements. The facility now only operates an evaporator, which dries rainwater that falls into containment areas, as well as a natural gas-fired boiler that provides steam to the evaporator. The facility is not allowed to discharge any rainwater into the city of Eugene’s industrial wastewater system, and so it must either be evaporated or trucked offsite for disposal. J.H. Baxter demonstrates a capacity to meet all applicable regulatory requirements, thus LRAPA cannot refuse the issuance of a Simple ACDP to J.H. Baxter.

**Comment 2:** One (1) commenter stated that they would like to see the permit prominently indicate the change of the facility’s Standard Industrial Classification (SIC) code from 2491, Wood Preserving, to 4961, Steam Supply (from the boiler).

**Response 2:** The SIC code, 4961, is identified on the cover page of the permit, and further discussion of the SIC code change is in the review report, item 1 on page 2.

**Comment 3:** One commenter asked that LRAPA require a Simple ACDP with the “low” annual fee be permanently assigned to the facility’s air permit and require that a Simple ACDP with the “low” annual fee be required for any future manufacturing on the site or any portion of the site.

**Response 3:** Under LRAPA regulations, LRAPA does not have the regulatory authority to permanently require the facility or any future owners or partial owners of the land to always maintain a Simple ACDP and pay the “low” annual fee. For example, section 37-0025 lists the types of air permits and the associated elements for which

facilities may qualify for those various air permits. Furthermore, and like the response to comment #1, LRAPA must issue air permits to facilities that meet all applicable regulatory requirements. Any new proposed industrial activity at the site or portion of the site would be evaluated according to the air regulations in effect at that time.

**Comment 4:** One (1) commenter suggested LRAPA clearly describe monitoring of the facility that will be conducted to ensure the facility will not use equipment or conduct operational practices that will be prohibited in the new air permit. The commenter also suggests that the permit did not explain in sufficient detail how LRAPA will hold the facility responsible for guaranteeing that no air toxics will be emitted from the equipment and preservative solutions.

**Response 4:** Condition 19 in the permit requires that the facility to prepare and to obtain LRAPA's approval of an Operation and Maintenance Plan (O&M Plan) within 60 days of permit issuance. Once approved, LRAPA will review the O&M Plan as part of onsite inspections to ensure that the facility is operating and maintaining equipment in a manner that ensures the equipment is being operated at the highest reasonable efficiency and effectiveness to minimize emissions.

Lastly, regarding the comment that LRAPA should explain in sufficient detail how LRAPA will hold the facility responsible for guaranteeing that no air toxics will be emitted from the equipment and preservative solutions, this is not possible. Please see Comment 10 and LRAPA's response to it.

**Comment 5:** Two (2) comments received stated the facility has frequently violated environmental regulations, and one (1) comment that LRAPA should acknowledge in the permit that the Oregon Department of Environmental Quality (DEQ) has classified the facility as a Significant Non-Complier (SNC) and the facility's history of non-compliance must be acknowledged.

**Response 5:** The SNC designation under DEQ's regulations pertains to other environmental programs besides air quality; the SNC designation is not related to any air quality regulation. However, in Item 8 of the review report, LRAPA lists the air related enforcement history of the facility. Additionally, LRAPA has worked with our agency partners in creating a [StoryMap](#) to help describe the various applicable environmental programs and associated compliance history of the facility.

**Comment 6:** One (1) comment received suggested that LRAPA require the facility to install continuous emissions monitoring systems (CEMS) for carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), and volatile organic compounds (VOCs). The comment goes on to suggest that LRAPA currently relies only on occasional visual inspections to determine compliance with CO, NO<sub>x</sub>, and VOC emission limits, and that CEMS are needed due to this insufficiency. The commenter states that emission estimates should not be allowed, and instead the facility should be held accountable to provide verifiable monitoring and emission measurements.

**Response 6:** The use of CEMS to monitor the pollutants mentioned in the comment is not necessary to ensure compliance with the respective Plant Site Emission Limits (PSELs) in the facility's permit. CEMS are typically required for major sources with Title V Operating Permits and not for minor sources such as JHB with potential emissions that are less than 10 tons/year of CO, NO<sub>x</sub>, and VOC each.

The use of established emission factors to estimate emissions for boilers and new emission factors developed for the evaporator are sufficient to ensure compliance with the CO, NO<sub>x</sub>, and VOC PSELs. For example, under the [DEQ Emission Factor Guidance for NSR Regulated Pollutants](#) as well as the [DEQ Title V Monitoring and Testing Guidance](#), boilers fired on natural gas with uncontrolled emissions of less than 99 tons/year may rely on emission factors to show compliance with PSELs.

LRAPA uses more than visual inspections to determine compliance with the PSELs and other permit requirements. See also the response to Comment 4.

**Comment 7:** LRAPA received two (2) comments that suggested the hours of operation for the evaporator and boiler be restricted by the Simple ACDP to coincide with LRAPA's business hours so that JHB's air emission processes not be operated when inspectors may not be available. The commenter also suggests that LRAPA is being overly generous with allowing the facility to operate 100% of the calendar year (i.e., 8,760 hours per year) and basing the emissions on full-time operation of the boiler and evaporator.

**Response 7:** There are several reasons LRAPA is not placing limits on the hours of operation of the boiler and evaporator.

- First, under the new DEQ PSEL rules that became effective March 1, 2023 which removed Generic PSELs from the rules and for which LRAPA based the PSELs for JHB's Simple ACDP, LRAPA is required by OAR 340-222-0041(2) to set the PSEL at the JHB's potential to emit or PTE. [Condition 3 in the Simple ACDP that establishes the PSELs in the Simple ACDP cites OAR 340-222-0041(2) as a regulatory reference.] In essence, Potential to Emit or PTE is defined in LRAPA and DEQ rules as either 100% of the facility's capacity (i.e., operating at 8,760 hours per year) or at some lesser level, if limits are requested by a facility. In the case of JHB's emissions, they were set at the facility's capacity for criteria pollutants while the permit limits daily and annual boiler fuel oil combustion to ensure the facility complies with LRAPA's Agency-initiated Level 1 Risk Assessment under the Cleaner Air Oregon (CAO) Program for air toxics. Therefore, emission estimates in the review report detail sheets are based on worst-case emissions to establish the facility's PTE and PSELs.
- Second, industrial and commercial boilers of the size at the facility typically do not startup and shutdown entirely each day. Boilers such as the one regulated by the air permit often go to low-fire when steam demand is less – this is the case overnight and on weekends at JHB. Frequent fluctuations in operational hours can shorten the life of the boiler and reduce operational efficiency due to excessive thermal expansion and contraction. Daily startups/shutdowns would also be energy/fuel intensive and would not allow for on demand use of steam but instead would require time for the startup/shutdown to occur – thereby reducing the regular hours of operation for the evaporator.
- Third, LRAPA maintains a compliant intake system where complaints can be submitted by phone, email, or online at any time of day. For complaints and odors reported outside of LRAPA's normal business hours, inspectors can conduct investigations during normal business hours, sometimes using recorded meteorological data such as wind speed and direction to help determine the source of the odor. The link to the LRAPA online complaint submission is <https://www.lrapa.org/air-quality-protection/current-aqi/file-an-air-quality-complaint/> and the phone number is 541-726-1930.

**Comment 8:** A commenter agreed with LRAPA that the facility's former Baseline Emission Rate (BER) be removed from the Simple ACDP

**Response 8:** Yes, LRAPA agrees. Under LRAPA regulations [42-0046(4)], facilities that request Simple ACDPs are not allowed to maintain their netting basis.

**Comment 9:** One (1) commenter suggested that air toxics be reduced as much as possible and that the permit should limit the boiler combustion on fuel oil to less than 2,000 gallons per rolling 12-month period. LRAPA should restrict the use of fuel oil to periods only when natural gas supply is curtailed.

**Response 9:** LRAPA agrees with this comment. Condition 9.a. of the permit already includes a limit of 2,000 gallons per year on a 12-month rolling basis for the boiler when fired on fuel oil, as well as a limit of 14 hours per calendar day for which the boiler may combust fuel oil (see Condition 9 of the Simple ACDP). These limits were placed in the permit to limit air toxics as part of the LRAPA Agency-initiated risk assessment under Cleaner Air Oregon (CAO). Outside of the CAO and area source boiler NESHAP limitations in the permit, LRAPA does not have a regulatory basis to limit periods or reasons when the facility combusts fuel oil.

**Comment 10:** LRAPA received one (1) comment that LRAPA or the facility should provide proof to the public that no air toxics are emitted by the evaporator. The commenter also suggests that quarterly sampling of process

water be added to the permit conditions.

**Response 10:** LRAPA cannot provide proof that no air toxics are emitted by the evaporator, because LRAPA recognizes that air toxics are potentially emitted by the evaporator. An Agency-initiated Level 1 Risk Assessment included an evaluation of the air toxics emitted from the evaporator. The Risk Assessment Results included the following table outlines the various potential health risks associated with each emission source at the facility:

### Risk Assessment Results:

| Assessment Type     | Cancer Risk Per Million People <sup>1</sup> | Chronic Hazard Index (HI) <sup>1</sup> | Acute Hazard Index (HI) |
|---------------------|---|--|-------------------------|
| Evaporator          | 1.5   | 0.02                                   | 0.04                    |
| Boiler Fuel Oil     | 1.0   | 0.01                                   | 0.44                    |
| Boiler Natural Gas  | 9.4E-07                                     | 1.1E-07                                | 4.2E-11                 |
| Total Facility Risk | 2.5   | 0.03                                   | 0.5                     |

1. Cancer risk and Chronic HI are based on nearest residence

The permit record indicates air toxics will be emitted at rates that are shown to be protective of human health and the environment. As seen above, there are health risks associated with the evaporator potential emissions. Please refer to the permit, review report, emission detail sheets, and risk summary for more details.

LRAPA does not believe quarterly sampling of process water would be useful or necessary. The sampling for which the emissions and risk assessment are based upon was conducted at what LRAPA believes are “worst-case” conditions when the facility was operating as a wood preserving manufacturing operation. Therefore, the risks in the table above likely overestimate the current and future operations whereby the facility is only evaporating rainwater that comes into contact with small residual amounts of treatment chemicals that remain in containment areas.

**Comment 11:** The last comment received by LRAPA stated that General Condition G.26.d. should be removed from the permit so that the facility does not have the opportunity to receive an extension on the payment of permit fees.

**Response 11:** The General Condition referenced in the comment is taken directly from LRAPA’s Rules and Regulations in 37-0082(2)(d) and pertains to situations whereby the air permit may be automatically terminated. One of those situations addressed in the rules is when a source fails to pay annual fees within 90 days of invoice by LRAPA, unless prior arrangements for payment have been approved in writing by LRAPA. LRAPA is unable to selectively remove General Condition G.26.d. from JHB’s permit since it applies to all facilities subject to regulation. The regulation is designed, in part, to allow LRAPA to approve payment plans. Most facilities pay their annual fees in the entire amount each year, but there are facilities within Lane County who utilize payment plans. JHB paid their 2023 annual fees in full this past December 2022.

### Public Hearing Comment Receipt Log

No oral comments were received during the public hearing.

### Public Comment Receipt Log

Written comments were received from:

1. Deborah Killian (Dogs3to1@comcast.net)
2. Shawn Butler (Butlerfamily9740@gmail.com)

3. Cristy Butler (ldp.mrsc@gmail.com)
4. Laurie Butler (lblynn21@gmail.com)
5. Lisa Arkin, Executive Director and Arjorie Arberry Baribeault, West Eugene Environmental Justice Coordinator – Beyond Toxics (larkin@beyondtoxics.org)
6. Joan Stempniak (justjoaner@gmail.com)