
Date: May 15, 2019

To: Environmental Quality Commission

From: Richard Whitman, Director

Subject: Agenda Item G (Action): State Implementation Plan updates to integrate LRAPA 2019 Cleaner Air Oregon rule adoption
May 16-17, 2019, EQC meeting

Why this is important

DEQ requests commission review and approval of rules adopted by the Lane Regional Air Protection Agency Board in March 2019 to implement the Cleaner Air Oregon program in Lane County. As the only remaining regional air quality authority in the state, LRAPA must maintain rules that are as stringent as the state programs administered by DEQ. The permitting rules approved by the LRAPA Board in March 2019 align the Lane County programs with state air quality permitting regulations, including fees, of the Cleaner Air Oregon program. Many of the rules approved by LRAPA are part of the Oregon Clean Air Act State Implementation Plan (SIP), but the Cleaner Air Oregon program is not part of the SIP. The EQC must approve LRAPA's amendments to the SIP, but must not approve as part of the SIP the rule amendments implementing CAO.

DEQ recommendation

DEQ recommends that the Oregon Environmental Quality Commission:

- Approve the LRAPA rule amendments as seen in Attachment A under ORS 468A.135(2);
- Approve incorporating the LRAPA rule amendments as seen in Attachment B into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040;
- Adopt the proposed SIP rule revision in Attachment C as part of Chapter 340 of the Oregon Administrative Rules; and
- Direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.

Background

On March 14, 2019, the LRAPA Board approved adopting new Cleaner Air Oregon rules, and made updates to existing LRAPA Rules and Regulations, to integrate the Cleaner Air Oregon air toxics permitting program into its work.

The rules, as adopted by LRAPA, are included as Attachment A of this staff report.

Prior to that adoption, DEQ reviewed the LRAPA rule proposal and determined that the LRAPA proposal, including revisions to existing rules, was as stringent as the state's program, which EQC adopted in November 2018. A letter showing that determination is included as Attachment D.

To keep its status as a delegated local air quality agency, LRAPA must maintain conformity with the state's rules. EQC provides this alignment by reviewing and approving LRAPA's rules under ORS 468A.135(2). For rules that are part of the Oregon Clean Air State Implementation Plan, EQC also provides this alignment by integrating relevant LRAPA updates into the Oregon Clean Air State Implementation Plan, or SIP. The EQC updates the SIP when it makes changes to its air quality permitting program rules that are part of the SIP, and sends the SIP updates to EPA for final approval. DEQ may operate its programs and implement the revised rules, including the collection of new and updated fees, once EQC approves the changes, and does not have to wait for EPA approval in order for the changes to become effective. This authority extends to LRAPA, which may implement rule changes and operate its programs when approved by its Board.

Next steps

If approved by the commission, then LRAPA may enforce the Cleaner Air Oregon rules within Lane County, and DEQ will submit the non-CAO SIP revisions to EPA for approval and integration into the Oregon Clean Air Act State Implementation Plan. LRAPA and DEQ will both continue to implement the Cleaner Air Oregon Program for industrial air toxics permitting in Lane County and the state, respectively.

Attachments

- A. LRAPA rule revisions, shown in redline, as adopted by the LRAPA Board on March 14, 2019
- B. LRAPA rule revisions that will be submitted for approval as SIP amendments, and showing those rule amendments that are not part of the SIP.
- C. Oregon Clean Air Act State Implementation Plan rule revision
- D. Letter from DEQ to LRAPA regarding rule stringency determination

Reported prepared by DEQ from LRAPA program information

Draft Rules – Edits Highlighted

Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 12

GENERAL PROVISIONS AND DEFINITIONS

Section 12-001 General

- (1) Description: The general provisions and definitions included in this title shall apply to all other LRAPA rules and regulations. Definitions that are included in any other LRAPA title are specific to that title and shall not apply to any other titles, rules or regulations.
- (2) Violations Not Authorized: Nothing in LRAPA rules or regulations is intended to permit any practice intended or designed to evade or circumvent LRAPA rules or regulations.
- (3) Severability: If a court of competent jurisdiction adjudges any LRAPA rule or regulation to be invalid such judgment shall be limited to that rule, regulation or portion thereof, and not otherwise effect, or invalidate the remainder of LRAPA rules and regulations.
- (4) LRAPA administers the air pollution control regulations listed in titles 12 through 51 in all areas of Lane County.

Section 12-005 Definitions

- "Act" or "FCAA" means the Federal Clean Air Act 42 U.S.C.A. §7401 to 7671q.
- "Activity" means any process, operation, action or reaction (e.g., chemical) at a source that emits a regulated pollutant.
- "Actual Emissions" means the mass emissions of a regulated pollutant from an emissions source during a specified time period as set forth in titles 34 and 42.
- "Adjacent" as used in the definitions of "major source" and "source" in 37-0070, means interdependent facilities that are nearby each other.
- "Affected Source," for the purposes of Title IV of the FCAA (Acid Rain) means a source that includes one or more affected units that are subject to emission reduction requirements or limitation.

- "Affected states," means all states:
 - A. Whose air quality may be affected by a proposed permit, permit modification, or permit renewal and that are contiguous to Oregon; or
 - B. That are within 50 miles of the permitted source.
- "Agency" means Lane Regional Air Protection Agency
- "Aggregate Insignificant Emissions" means the annual actual emissions of any regulated air pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities must be less than or equal to the lowest applicable level specified:
 - A. One (1) ton for each criteria pollutant (except lead), total reduced sulfur, hydrogen sulfide, sulfuric acid mist, any Class I or Class II substance subject to a standard promulgated under or established by Title VI of the FCAA;
 - B. 500 pounds for PM₁₀ in a PM₁₀ nonattainment area;
 - C. 500 pounds for PM_{2.5} in a PM_{2.5} nonattainment area;
 - D. 120 pounds for lead;
 - E. 600 pounds for fluorides;
 - F. the lesser of the amount established in 40 CFR 68.130, or 1,000 pounds;
 - G. an aggregate of 5,000 pounds for all hazardous air pollutants;
 - H. 2,756 tons CO_{2e} (short tons) of greenhouse gases.
- "Agricultural operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the raising and sale of livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose. It does not include the construction and use of dwellings customarily provided in conjunction with the agricultural operation.
- "Air contaminant" or "Air pollutant" means material which, when emitted, causes or tends to cause the degradation of air quality. Such material includes but is not limited to particulate matter, dust, fume, aerosol, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid, any regulated pollutant or any combination thereof. Such term includes any precursors to the formation of any air pollutant; to the extent the EPA has identified such precursor or precursors for the particular purpose for which the term air pollutant is used.

- "Air Contaminant Discharge Permit" or "ACDP" means a written authorization issued, renewed, amended, or revised by LRAPA, ~~pursuant to~~under Title 37, Air Contaminant Discharge Permits.
- "Alternative Method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to LRAPA's satisfaction to, in specific cases, produce results adequate for determination of compliance. The alternative method must comply with the intent of the rules, is at least equivalent in objectivity and reliability to the uniform recognized procedures, and is demonstrated to be reproducible, selective, sensitive, accurate, and applicable to the program. An alternative method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to LRAPA.
- "Ambient air" means the portion of the atmosphere, external to buildings, to which the general public has access.
- "Applicable requirement" means all of the following as they apply to emissions units in an Oregon Title V Operating Permit program source or ACDP program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:
 - A. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rulemaking under Title I of the FCAA that implements the relevant requirements of the FCAA, including any revisions to that plan promulgated in 40 CFR part 52;
 - B. Any standard or other requirement adopted under LRAPA's State Implementation Plan, that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;
 - C. Any term or condition in an ACDP, LRAPA Title 37, Air Contaminant Discharge Permits, including any term or condition of any preconstruction permits issued ~~pursuant to~~under LRAPA Title 38, New Source Review, until or unless LRAPA revokes or modifies the term or condition by a permit modification;
 - D. Any term or condition in a Notice of Construction and Approval of Plans, Title 34 Stationary Source Notification Requirements until or unless LRAPA revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;
 - E. Any term or condition in a Notice of Approval, OAR 340-218-0190, issued before July 1, 2001, until or unless LRAPA revokes or modifies the term or condition by a Notice of Approval or a permit modification;
 - F. Any term or condition of a PSD permit issued by the EPA until or unless the EPA revokes or modifies the term or condition by a permit modification;

- G. Any standard or other requirement under section 111 of the FCAA (NSPS), including section 111(d);
- H. Any standard or other requirement under section 112 of the FCAA (HAPs), including any requirement concerning accident prevention under section 112(r)(7) of the FCAA (Accidental Release Prevention);
- I. Any standard or other requirement of the acid rain program under Title IV of the FCAA or the regulations promulgated thereunder;
- J. Any requirements established ~~pursuant to~~ under section 504(b) (Title V permit monitoring and analysis requirements) or section 114(a)(3) of the FCAA (Federal Enforcement; compliance certification);
- K. Any standard or other requirement under section 126(a)(1) and (c) (PSD) of the FCAA;
- L. Any standard or other requirement governing solid waste incineration, under section 129 of the FCAA (Solid Waste Combustion);
- M. Any standard or other requirement for consumer and commercial products, under section 183(e) of the FCAA (Federal ozone measures);
- N. Any standard or other requirement for tank vessels, under section 183(f) of the FCAA;
- O. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the FCAA;
- P. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the FCAA, unless the Administrator has determined that such requirements need not be contained in an Oregon Title V Operating Permit; and
- Q. Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the FCAA, but only as it would apply to temporary sources permitted ~~pursuant to~~ under section 504(e) of the FCAA.

- "Applicable State Implementation Plan" and "Plan" refer to the programs and rules of the Department or LRAPA, as approved by the EPA, or any EPA-promulgated regulations in 40 CFR part 52, subpart MM.
- "ASTM" means the American Society for Testing Materials.
- "Attainment area" or "unclassified area" means an area that has not otherwise been designated by EPA as nonattainment with ambient air quality standards for a particular regulated pollutant. Attainment areas or unclassified areas may also be referred to as sustainment or maintenance areas as designated in LRAPA title 29. Any particular location may be part of an attainment area or unclassified area for one regulated pollutant while also being in a different type of designated area for another regulated pollutant.

- "Attainment pollutant" means a pollutant for which an area is designated an attainment or unclassified area.
- "Baseline emission rate" means the actual emission rate during a baseline period as determined under LRAPA title 42.
- "Baseline Period" means the period used to determine the baseline emission rate for each regulated pollutant under LRAPA title 42.
- "Best Available Control Technology" or "BACT" means an emissions limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of each air contaminant subject to regulation under the FCAA which would be emitted from any proposed major source or major modification which, on a case-by-case basis taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event may the application of BACT result in emissions of any air contaminant that would exceed the emissions allowed in any applicable new source performance standard or any standard for hazardous air pollutant. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard shall, to the degree possible, set forth the emission reduction achievable and shall provide for compliance by prescribing appropriate permit conditions.
- "Biomass" means non-fossilized and biodegradable organic material originating from plants, animals, and micro-organisms, including products, byproducts, residues and waste from agriculture, forestry, and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.
- "Board" means the Board of Directors of the Lane Regional Air Protection Agency
- "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.
- "Capture efficiency" means the amount of regulated pollutant collected and routed to an air pollution control device divided by the amount of total emissions generated by the process being controlled.
- "Capture system" means the equipment, including but not limited to hoods, ducts, fans, and booths used to contain, capture and transport a regulated pollutant to a control device.
- "Carbon dioxide equivalent" or "CO₂e" means an amount of greenhouse gas or gases expressed as the equivalent amount of carbon dioxide, and is computed by multiplying the mass of each of the greenhouse gases by the global warming potential published for each gas at 40 CFR part 98, subpart A, Table A-1—Global Warming Potentials, and adding the

resulting value for each greenhouse gas to compute the total equivalent amount of carbon dioxide.

- "Categorically Insignificant Activity" means any of the following listed regulated pollutant emitting activities principally supporting the source or the major industrial group. Categorically insignificant activities must comply with all applicable requirements.
 - A. Constituents of a chemical mixture present at less than 1 percent by weight of any chemical or compound regulated under OAR Chapter 340, divisions 218 and 220, and LRAPA titles 12 through 51 or less than 0.1 percent by weight of any carcinogen listed in the U. S. Department of Health and Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year.
 - B. Evaporative and tail pipe emissions from on-site motor vehicle operation;
 - C. Distillate oil, kerosene, and gasoline, natural gas or propane burning equipment, provided the aggregate expected actual emissions of the equipment identified as categorically insignificant do not exceed the de minimis level for any regulated pollutant, based on the expected maximum annual operation of the equipment. If a source's expected emissions from all such equipment exceed the de minimis levels, then the source may identify a subgroup of such equipment as categorically insignificant with the remainder not categorically insignificant. The following equipment may never be included as categorically insignificant:
 - (1) Any individual distillate oil, kerosene or gasoline burning equipment with a rating greater than 0.4 million Btu/hour;
 - (2) Any individual natural gas or propane burning equipment with a rating greater than 2.0 million Btu/hour;
 - D. Distillate oil, kerosene, gasoline, natural gas or propane burning equipment brought on site for six months or less for maintenance, construction or similar purposes, such as but not limited to generators, pumps, hot water pressure washers and space heaters, provided that any such equipment that performs the same function as the permanent equipment, must be operated within the source's existing PSEL;
 - E. Office activities;
 - F. Food service activities;
 - G. Janitorial activities;
 - H. Personal care activities;
 - I. Groundskeeping activities including, but not limited to building painting and road and parking lot maintenance;
 - J. On-site laundry activities;

- K. On-site recreation facilities;
- L. Instrument calibration;
- M. Maintenance and repair shop;
- N. Automotive repair shops or storage garages;
- O. Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;
- P. Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI (Stratospheric Ozone Protection), including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;
- Q. Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;
- R. Temporary construction activities;
- S. Warehouse activities;
- T. Accidental fires;
- U. Air vents from air compressors;
- V. Air purification systems;
- W. Continuous emissions monitoring vent lines;
- X. Demineralized water tanks;
- Y. Pre-treatment of municipal water, including use of deionized water purification systems;
- Z. Electrical charging stations;
- AA. Fire brigade training;
- BB. Instrument air dryers and distribution;
- CC. Process raw water filtration systems;
- DD. Pharmaceutical packaging;
- EE. Fire suppression;
- FF. Blueprint making;

- GG. Routine maintenance, repair, and replacement such as anticipated activities most often associated with and performed during regularly scheduled equipment outages to maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;
- HH. Electric motors;
- II. Storage tanks, reservoirs, transfer and lubricating equipment used exclusively for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;
- JJ. On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;
- KK. Natural gas, propane, and liquefied petroleum gas (LPG) storage tanks and transfer equipment;
- LL. Pressurized tanks containing gaseous compounds;
- MM. Vacuum sheet stacker vents;
- NN. Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;
- OO. Log ponds;
- PP. Storm water settling basins;
- QQ. Fire suppression and training;
- RR. Paved roads and paved parking lots within an urban growth boundary;
- SS. Hazardous air pollutant emissions in fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;
- TT. Health, safety, and emergency response activities;
- UU. Emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency, provided that the aggregate horsepower rating of all stationary emergency generator and pump engines is not more than 3,000 horsepower. If the aggregate horsepower rating of all stationary emergency generator and pump engines is more than 3,000 horsepower, then no emergency generators and pumps at the source may be considered categorically insignificant;
- VV. Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;

- WW. Non-contact steam condensate flash tanks;
- XX. Non-contact steam vents on condensate receivers, deaerators and similar equipment;
- YY. Boiler blowdown tanks;
- ZZ. Industrial cooling towers that do not use chromium-based water treatment chemicals;
- AAA. Ash piles maintained in a wetted condition and associated handling systems and activities;
- BBB. Uncontrolled oil/water separators in effluent treatment systems, excluding systems with a throughput of more than 400,000 gallons per year of effluent located at the following sources:
- (1) Petroleum refineries;
 - (2) Sources that perform petroleum refining and re-refining of lubricating oils and greases including asphalt production by distillation and the reprocessing of oils and/or solvents for fuels; or
 - (3) Bulk gasoline plants, bulk gasoline terminals, and pipeline facilities;
- CCC. Combustion source flame safety purging on startup;
- DDD. Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;
- EEE. Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and
- FFF. White water storage tanks.
- "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies accuracy of the emission statement.
 - "CFR" means Code of Federal Regulations.
 - "Chair" means the chairperson of the Board of Directors of the Lane Regional Air Protection Agency.
 - "Class I Area" or "PSD Class I area" means any Federal, State, or Indian reservation land which is classified or reclassified as a Class I area under LRAPA title 29.
 - "Class II area" or "PSD Class II area" means any land which is classified or reclassified as a Class II area under LRAPA title 29.
 - "Class III area" or "PSD Class III area" means any land which is reclassified as a Class III area under LRAPA title 29.

- "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.
- "Commence" or "commencement" means, that the owner or operator has obtained all necessary preconstruction approvals required by the FCAA and either has: begun, or caused to begin a continuous program of actual on-site construction of the source to be completed in a reasonable time; or Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.
- "Commission" or "EQC" means the Oregon Environmental Quality Commission.
- "Constant process rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.
- "Construction":
 - A. Except as provided in subsection B. means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of a source or part of a source;
 - B. As used in LRAPA title 38 means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or in method of operation of a source which would result in a change in actual emissions.
- "Continuous compliance determination method" means a method, specified by the applicable standard or an applicable permit condition, which:
 - A. Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and
 - B. Provides data either in units of the standard or correlated directly with the compliance limit.
- "Continuous monitoring system" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emission rates or concentrations on a continuous basis as specified in the DEQ Continuous Monitoring Manual, and includes continuous emission monitoring systems, continuous opacity monitoring system (COMS) and continuous parameter monitoring systems.
- "Control device" means equipment, other than inherent process equipment, that is used to destroy or remove a regulated air pollutant prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to, fabric filters, mechanical collectors, electrostatic precipitators, inertial separators, afterburners, thermal or catalytic incinerators, adsorption devices(such as carbon beds), condensers, scrubbers(such as wet collection and gas absorption devices), selective catalytic

or non-catalytic reduction systems, flue gas recirculation systems, spray dryers, spray towers, mist eliminators, acid plants, sulfur recovery plants, injection systems (such as water, steam, ammonia, sorbent or limestone injection), and combustion devices independent of the particular process being conducted at an emissions unit (e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters). For purposes of 35-0200 through 35-0280, a control device does not include passive control measures that act to prevent regulated pollutants from forming, such as the use of seals, lids, or roofs to prevent the release of regulated pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular regulated pollutant-specific emissions unit, then that definition will be binding for purposes of 35-0200 through 35-0280.

- "Control efficiency" means the product of the capture and removal efficiencies.
- "Criteria pollutant" means any of the following regulated pollutants: nitrogen oxides, volatile organic compounds, particulate matter, PM₁₀, PM_{2.5}, sulfur dioxide, carbon monoxide, and lead.
- "Data" means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.
- "Day" means a 24-hour period beginning at 12:00 a.m. midnight or a 24-hour period specified in a permit.

- "De minimis emission level" means the level for the regulated pollutants listed below:

Pollutant	De minimis (tons/year, except as noted)
GHG (CO ₂ e)	2,756 (short tons)
CO	1
NO _x	1
SO ₂	1
VOC	1
PM	1
PM ₁₀	1
Direct PM _{2.5}	1
Lead	0.1
Fluorides	0.3
Sulfuric Acid Mist	0.7
Hydrogen Sulfide	1
Total Reduced Sulfur (including hydrogen sulfide)	1
Reduced Sulfur	1
Municipal waste combustor organics (Dioxin and furans)	0.0000005
Municipal waste combustor metals	1
Municipal waste combustor acid gases	1
Municipal solid waste landfill gases (measured as nonmethane organic compounds)	1
Single HAP	1
Combined HAP (aggregate)	1

- "Department" or "DEQ" means the Oregon Department of Environmental Quality.
- "DEQ method [#]" means the sampling method and protocols for measuring a regulated pollutant as described in the DEQ Source Sampling Manual.
- "Designated area" means an area that has been designated as an attainment, unclassified, sustainment, nonattainment, reattainment, or maintenance area under LRAPA title 29 or applicable provisions of the FCAA.
- "Destruction efficiency" means removal efficiency.
- "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.
- "Director" means the Director of the Lane Regional Air Protection Agency or the Director of the Oregon Department of Environmental Quality and authorized deputies or officers, depending on the context.
- "Direct PM_{2.5}" has the meaning provided in the definition of PM_{2.5}.

- "Distillate Fuel Oil" means any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils.
- "Draft permit" means the version of an LRAPA Title V Operating Permit for which LRAPA offers public participation under OAR 340-218-0210 or the EPA and affected State review under OAR 340-218-0230.
- "Dry standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions.
- "Effective date of the program" means the date that the EPA approves the Oregon Title V Operating Permit program submitted by DEQ on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.
- "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
- "Emission" means a release into the atmosphere of any regulated pollutant or air contaminant.
- "Emission estimate adjustment factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.
- "Emission factor" means an estimate of the rate at which a regulated pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate).
- "Emission limitation" or "Emission standard" or "Emission limitation or standard" means:
 - A. Except as provided in subsection B., a requirement established by a state, local government, or the EPA which limits the quantity, rate, or concentration of emissions of regulated air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.
 - B. As used in LRAPA 35-0200 through 35-0280, any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the FCAA. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions, e.g., pounds of SO₂ per hour, pounds of SO₂ per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO₂, or as the relationship of uncontrolled to controlled

emissions, e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO₂. An emission limitation or standard may also be expressed either as a work practice, process or control device parameter, or other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of LRAPA 35-0200 through 35-0280, an emission limitation or standard does not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, operate and maintain sources using good air pollution control practices, develop and maintain a malfunction abatement plan, keep records, submit reports, or conduct monitoring.

- "Emission reduction credit banking" means to presently reserve, subject to requirements of LRAPA ~~¶~~ Title 41, Emission Reduction Credits, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.
- "Emission reporting form" means a paper or electronic form developed by LRAPA that shall be completed by the permittee to report calculated emissions, actual emissions, or permitted emissions for interim emission fee assessment purposes.
- "Emission unit" means any part or activity of a source that emits or has the potential to emit any regulated air pollutant.
 - A. A part of a stationary source is any machine, equipment, raw material, product, or by-product that produces or emits air pollutants. An activity is any process, operation, action, or reaction, e.g., chemical, at a stationary source that emit air regulated pollutants. Except as described in subsection D, parts and activities may be grouped for purposes of defining an emissions unit provided the following conditions are met:
 - (1) The group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply; and
 - (2) The emissions from the emissions unit are quantifiable.
 - B. Emissions units may be defined on a regulated pollutant-by-regulated-pollutant basis where applicable.
 - C. The term emissions unit is not meant to alter or affect the definition of the term unit for purposes of Title IV of the FCAA.
 - D. Parts and activities shall not be groups for purposes of determining emissions increases from an emissions unit under LRAPA titles 34 and 38, or for purposes of determining the applicability of a New Source Performance Standard (NSPS).
- "Enforcement" means any documented action taken to address a violation.
- "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

- "EPA Method 9" means the method for Visual Determination of the Opacity of Emissions from Stationary Sources as described in 40 CFR part 60, Appendix A-4.
- "Equivalent method" means any method of sampling and analyzing for a regulated pollutant that has been demonstrated to LRAPA's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to LRAPA.
- "Eugene/Springfield Air Quality Maintenance Area" means that area described in Section 4.6.2.1 and Figure 4.6.2.1--1 of the State of Oregon State Implementation Plan Revision, Eugene/Springfield AQMA, as approved by the Board on November 6, 1980.
- "Eugene-Springfield Urban Growth Boundary (ESUGB)" means the area within and around the cities of Eugene and Springfield, as described in the currently acknowledged Eugene-Springfield Metropolitan Area General Plan, as amended.
- "Event" means excess emissions that arise from the same condition and occur during a single calendar day or continue into subsequent calendar days.
- "Exceedance" means a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions, or opacity, are greater than the applicable emission limitation or standard, or less than the applicable standard in the case of a percent reduction requirement, consistent with any averaging period specified for averaging the results of the monitoring.
- "Excess emissions" means emissions in excess of a permit or permit attachment limit, in excess of a risk limit under OAR 340, division 245, or in violation of any applicable air quality rule.
- "Excursion" means a departure from an indicator range established for monitoring under 35-0200 through 35-0280 and OAR 340-218-0050(3)(a), consistent with any averaging period specified for averaging the results of the monitoring.
- "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.
- "Federal Major Source" means any source listed in subsections A or D below:
 - A. A source with potential to emit:
 - (1) 100 tons per year or more of any individual regulated pollutant, excluding greenhouse gases and hazardous air pollutants listed in LRAPA title 44 if in a source category listed in subsection C, or

(2) 250 tons per year or more of any individual regulated pollutant, excluding greenhouse gases and hazardous air pollutants listed in LRAPA title 44, if not in a source category listed in subsection C.

B. Calculations for determining a source's potential to emit for purposes of subsections A. and D. must include the following:

- (1) Fugitive emissions and insignificant activity emissions; and
- (2) Increases or decreases due to a new or modified source.

C. Source categories:

- (1) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;
- (2) Coal cleaning plants with thermal dryers;
- (3) Kraft pulp mills;
- (4) Portland cement plants;
- (5) Primary Zinc Smelters;
- (6) Iron and Steel Mill Plants;
- (7) Primary aluminum ore reduction plants;
- (8) Primary copper smelters;
- (9) Municipal Incinerators capable of charging more than 50 tons of refuse per day;
- (10) Hydrofluoric acid plants;
- (11) Sulfuric acid plants;
- (12) Nitric acid plants;
- (13) Petroleum Refineries;
- (14) Lime plants;
- (15) Phosphate rock processing plants;
- (16) Coke oven batteries;
- (17) Sulfur recovery plants;
- (18) Carbon black plants, furnace process;
- (19) Primary lead smelters;

- (20) Fuel conversion plants;
- (21) Sintering plants;
- (22) Secondary metal production plants;
- (23) Chemical process plants, excluding ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (24) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;
- (25) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (26) Taconite ore processing plants;
- (27) Glass fiber processing plants;
- (28) Charcoal production plants.

D. A major stationary source as defined in part D of Title I of the FCAA, including:

- (1) For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tons per year of nitrogen oxides do not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the FCAA, that requirements under section 182(f) of the FCAA do not apply;
 - (2) For ozone transport regions established ~~pursuant to~~ under section 184 of the FCAA, sources with the potential to emit 50 tons per year or more of VOCs;
 - (3) For carbon monoxide nonattainment areas that are classified as "serious" and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tons per year or more of carbon monoxide.
 - (4) For PM10 nonattainment areas classified as "serious," sources with the potential to emit 70 tons per year or more of PM10.
- "Filing" or "filed" means receipt in the office of the Director. Such receipt is adequate where filing is required for a document on a matter before LRAPA, except a claim of personal liability.

- "Final permit" means the version of an Oregon or LRAPA Title V Operating Permit issued by DEQ or LRAPA that has completed all review procedures required by OAR 340-218-0120 through 340-218-0240.
- "Form" means a paper or electronic form developed by DEQ or LRAPA.
- "Fuel burning equipment" means equipment, other than internal combustion engines, the principal purpose of which is to produce heat or power by indirect heat transfer.
- "Fugitive Emissions":
 - A. Except as used in subsection B., means emissions of any air contaminant which could escape to the atmosphere from any point or area that is not identifiable as a stack, chimney, vent, duct, or equivalent opening.
 - B. As used to define a major Oregon Title V Operating Permit program source, means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- "General permit":
 - A. Except as provided in subsection B. of this section, means an Air Contaminant Discharge Permit established under 37-0060.
 - B. As used in OAR 340 division 218 means an LRAPA or Oregon Title V Operating Permit established under OAR 340-218-0090.

- "Generic PSEL" means the levels for the regulated pollutants below:

Pollutant	Generic PSEL (tons/year, except as noted)
GHG (CO ₂ e)	74,000
CO	99
NO _x	39
SO ₂	39
VOC	39
PM	24
PM ₁₀	14
PM _{2.5}	9
Lead	0.5
Fluorides	2
Sulfuric Acid Mist	6
Hydrogen Sulfide	9
Total Reduced Sulfur (including hydrogen sulfide)	9
Reduced Sulfur	9
Municipal waste combustor organics (Dioxin and furans)	0.0000030
Municipal waste combustor metals	14
Municipal waste combustor acid gases	39
Municipal solid waste landfill gases (measured as nonmethane organic compounds)	49
Single HAP	9
Combined HAPs (aggregate)	24

- "Greenhouse gases", "GHGs", or "GHG" means the aggregate group of the following six gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride. Each gas is also individually a greenhouse gas. The definition of greenhouse gases in this section does not include, for purposes of LRAPA title 37, OAR 340 division 218, and LRAPA title 38, carbon dioxide emissions from the combustion or decomposition of biomass except to the extent required by federal law.
- "Growth allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.
- "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.
- "Hazardous Air Pollutant" or "HAP" means an air pollutant listed by the EPA pursuant to Section 112(b) of the FCAA or determined by the EQC or Board to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.

- "Immediately" means as soon as possible but in no case more than one hour after a source knew or should have known of an excess emission period.
- "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
- "Indian reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.
- "Inherent process equipment" means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of source testing requirements in 35-0200 through 35-0280, inherent process equipment is not considered a control device.
- "Insignificant activity" means an activity or emission that LRAPA has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.
- "Insignificant change" means an off-permit change defined under OAR 340-218-0140(2)(a) to either a significant or an insignificant activity which:
 - A. Does not result in a re-designation from an insignificant to a significant activity;
 - B. Does not invoke an applicable requirement not included in the permit; and
 - C. Does not result in emission of regulated pollutants not regulated by the source's permit.
- "Internal combustion engine" means stationary gas turbines and reciprocating internal combustion engines.
- "Late payment" means a fee payment which is postmarked after the due date.
- "Liquefied petroleum gas" has the meaning given by the American Society for Testing and Materials in ASTM D1835-82, "Standard Specification for Liquid Petroleum Gases."
- "Lowest Achievable Emission Rate" or "LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. The application of this term cannot permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants.

- "LRAPA" means the Lane Regional Air Protection Agency, a regional air quality control authority.
- "Maintenance area" means any area that was formerly nonattainment for a criteria pollutant but has since met the ambient air quality standard, and EPA has approved a maintenance plan to comply the standards pursuant to under 40 CFR 51.110. Maintenance areas are designated by the LRAPA Board according to title 29.
- "Maintenance pollutant" means a regulated pollutant for which a maintenance area was formerly designated a nonattainment area.
- "Major Modification" means any physical change or change in the method of operation of a source that results in satisfying the requirements of 38-0025.
- "Major New Source Review" or "Major NSR" means the new source review process and requirements under 38-0010 through 38-0070 and 38-0500 through 38-0540 based on the location and regulated pollutants emitted.
- "Major Source":
 - A. Except as provided in subsection B., means a source that emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate. The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.
 - B. As used in LRAPA ~~¶~~ Title 34, Stationary Source Notification Requirements, OAR 340 division 218, rules applicable to sources required to have LRAPA Title V Operating Permits, OAR 340 division 220, Title V Operating Permit Fees, section 37-0066 Standard ACDPs, and LRAPA ~~¶~~ Title 33, Emission Standards for Specific Industries, means any stationary source or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person or persons under common control belonging to a single major industrial grouping or supporting the major industrial group and that is described in paragraphs (1), (2), or (3). For the purposes of this subsection, a stationary source or group of stationary sources is considered part of a single industrial grouping if all of the regulated pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.
 - (1) A major source of hazardous air pollutants, which means:
 - (i) For hazardous air pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any single hazardous air pollutant that has been

listed ~~pursuant to~~ under 44-020; 25 tons per year or more of any combination of such hazardous air pollutants, unless the Administrator establishes a lesser quantity. Emissions from any oil or gas exploration or production well, along with its associated equipment, and emissions from any pipeline compressor or pump station will not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

- (ii) For radionuclides, "major source" will have the meaning specified by the Administrator by rule.
- (2) A major stationary source of regulated pollutants, as defined in section 302 of the FCAA, that directly emits or has the potential to emit 100 tons per year or more of any regulated air pollutant, except greenhouse gases, including any major source of fugitive emissions of any such regulated pollutant. The fugitive emissions of a stationary source are not considered in determining whether it is a major stationary source for the purposes of section 302(j) of the FCAA, unless the source belongs to one of the following categories of stationary sources:
- (i) Coal cleaning plants (with thermal dryers);
 - (ii) Kraft pulp mills;
 - (iii) Portland cement plants;
 - (iv) Primary zinc smelters;
 - (v) Iron and steel mills;
 - (vi) Primary aluminum ore reduction plants;
 - (vii) Primary copper smelters;
 - (viii) Municipal incinerators capable of charging more than 50 tons of refuse per day;
 - (ix) Hydrofluoric, sulfuric, or nitric acid plants;
 - (x) Petroleum refineries;
 - (xi) Lime plants;
 - (xii) Phosphate rock processing plants;
 - (xiii) Coke oven batteries;
 - (xiv) Sulfur recovery plants;
 - (xv) Carbon black plants (furnace process);

- (xvi) Primary lead smelters;
 - (xvii) Fuel conversion plants;
 - (xviii) Sintering plants;
 - (xix) Secondary metal production plants;
 - (xx) Chemical process plants, excluding ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
 - (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
 - (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - (xxvii) All other stationary source categories, that as of August 7, 1980, is being regulated by a standard promulgated under section 111 or 112 of the FCAA.
- (3) From July 1, 2011 through November 6, 2014, a major stationary source of regulated pollutants, as defined by Section 302 of the FCAA, that directly emits or has the potential to emit 100 tons per year or more of GHGs and directly emits or has the potential to emit 100,000 tons per year or more CO₂e, including fugitive emissions.
- "Material balance" means a procedure for calculating emissions based on the difference between the amount of material added to a process and the amount consumed and recovered from a process.
 - "Modification", except as used in the terms "major modification", "permit modification" and "Title I modification", means any physical change to, or change in the method of operation of, a source or part of a source that results in an increase in the source's or part of a source's potential to emit any regulated air pollutant on an hourly basis. Modifications do not include the following:
 - A. Increases in hours of operation or production rates that do not involve a physical change or change in the method of operation;

- B. Changes in the method of operation due to using an alternative fuel or raw material that the source or part of a source was physically capable of accommodating during the baseline period; and
 - C. Routine maintenance, repair and like-for-like replacement of components unless they increase the expected life of the source or part of a source by using component upgrades that would not otherwise be necessary for the source or part of a source to function.
- "Monitoring" means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Monitoring may include record keeping if the records are used to determine or assess compliance (such as records of raw material content and usage, or records documenting compliance with work practice requirements). Monitoring may include conducting compliance tests, such as the procedures in appendix A to 40 CFR part 60, on a routine periodic basis. Requirements to conduct such tests on a one-time basis, or at such times as a regulatory authority may require on a non-regular basis, are not considered monitoring requirements for purposes of this definition. Monitoring may include one or more than one of the following data collection techniques as appropriate for a particular circumstance:
 - A. Continuous emission or opacity monitoring systems.
 - B. Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.
 - C. Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).
 - D. Maintaining and analyzing records of fuel or raw materials usage.
 - E. Recording results of a program or protocol to conduct specific operation and maintenance procedures.
 - F. Verifying emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.
 - G. Visible emission observations and recording.
 - H. Any other form of measuring, recording, or verifying on a routine basis, emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.
 - "Natural gas" means a naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal component is methane.
 - "Netting basis" means an emission rate determined as specified in 42-0046.
 - "Nitrogen oxides" or "NO_x" means all oxides of nitrogen except nitrous oxide.

- "Nonattainment area" means a geographical area within the jurisdiction of the Agency, as designated by the Board, the EQC, or the EPA which exceeds any federal, state or local primary or secondary ambient air quality standard. Nonattainment areas are designated by the Board according to LRAPA title 29 or by the EQC according to division 204.
- "Nonattainment pollutant" means a regulated pollutant for which an area is designated a nonattainment area. Nonattainment areas are designated by the Board according to LRAPA title 29 or by the EQC according to division 204.
- "Normal source operation" means operations that do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.
- "Odor" means the property of an air contaminant that affects the sense of smell.
- "Offset" means an equivalent or greater emission reduction that is required before allowing an emission increase from a source that is subject to Major NSR or State NSR.
- "Opacity" means the degree to which emissions, excluding uncombined water, reduce transmission of light and obscure the view of an object in the background as measured by EPA Method 203B or other method, as specified in each applicable rule.
- "Oregon Title V Operating Permit", "Title V Permit", or "LRAPA Title V Operating Permit" means written authorization issued, renewed, amended, or revised ~~pursuant to~~ under OAR 340 division 218.
- "Oregon Title V operating permit program" or "Title V program" means the Oregon program described in OAR division 218 and approved by the Administrator under 40 CFR part 70.
- "Oregon Title V operating permit program source" "Title V program source" means any source subject to the permitting requirements, OAR 340 division 218.
- "Ozone precursor" means nitrogen oxides and volatile organic compounds.
- "Ozone season" means the contiguous 3 month period during which ozone exceedances typically occur, i.e., June, July, and August.
- "Particleboard" means mat-formed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.
- "Particulate matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by the test method specified in each applicable rule, or where not specified by rule, in the permit.
- "Permit" means an Air Contaminant Discharge Permit or an LRAPA Title V Operating Permit, permit attachment and any amendments or modifications thereof.

- "Permit modification" means a permit revision that meets the applicable requirements of LRAPA title 37, title 38, or OAR 340-218-0160 through 340-218-0180.
- "Permit revision" means any permit modification or administrative permit amendment.
- "Permitted emissions" as used in OAR 340 division 220 means each regulated pollutant portion of the PSEL, as identified in an ACDP, LRAPA or Oregon Title V Operating Permit, review report, or by DEQ ~~pursuant to~~under OAR 340-220-0090.
- "Permittee" means the owner or operator of facility source, authorized to emit regulated pollutants under an Air Contaminant Discharge Permit or the Oregon or LRAPA Title V Operating Permit.
- "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State of Oregon and any agencies thereof, and the federal government and any agencies thereof.
- "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual regulated pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one permitted emission for purposes of Oregon Title V Operating Permit Fees in OAR 340 division 220.
- "Plywood" means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.
- "PM₁₀":
 - A. When used in the context of emissions, means emissions of finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified in rule, in each individual permit.
 - B. When used in the context of ambient concentration, means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured under 40 CFR part 50 Appendix J or an equivalent method designated under 40 CFR part 53.
- "PM_{2.5}":
 - A. When used in the context of direct PM_{2.5} emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified by rule, in each individual permit.

- B. When used in the context of PM_{2.5} precursor emissions, means sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified by rule, in each individual permit.
 - C. When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured under 40 CFR part 50, Appendix L, or an equivalent method designated under 40 CFR part 53.
- "PM_{2.5} fraction" means the emissions weighted average of the fraction of PM_{2.5} in relation to PM₁₀ for each emissions unit that is included in the netting basis and PSEL.
 - "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated pollutant.
 - "Portable" means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
 - "Potential to emit" or "PTE" means the lesser of:
 - A. The regulated pollutant emissions capacity of a stationary source; or
 - B. The maximum allowable regulated pollutant emissions taking into consideration any physical or operational limitation, including the use of control devices and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation is enforceable by the Administrator.
 - C. This definition does not alter or affect the use of this term for any other purposes under the FCAA or the term "capacity factor" as used in Title IV of the FCAA and the regulations promulgated thereunder. Secondary emissions are not considered in determining the potential to emit.
 - "ppm" means parts per million by volume unless otherwise specified in the applicable rule or an individual permit. It is a dimensionless unit of measurement for gases that expresses the ratio of the volume of one component gas to the volume of the entire sample mixture of gases.
 - "Predictive emission monitoring system" or "PEMS" means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.
 - "Press/cooling vent" means any opening through which particulate and gaseous emissions from plywood, particleboard, or hardboard manufacturing are exhausted, either by natural draft or powered fan, from the building housing the process. Such openings are generally located immediately above the board press, board unloader, or board cooling area.

- "Process upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.
- "Proposed permit" means the version of an LRAPA Title V Operating Permit that LRAPA proposes to issue and forwards to the Administrator for review in compliance with OAR 340-218-0230.
- "Reattainment area" means an area that is designated as nonattainment and has three consecutive years of monitoring data that shows the area is meeting the ambient air quality standard for the regulated pollutant for which the area was designated a nonattainment area, but a formal redesignation by EPA has not yet been approved. Reattainment areas are designated by the EQC according to division 204 and LRAPA according to title 29.
- "Reattainment pollutant" means a regulated pollutant for which an area is designated a reattainment area.
- "Reference method" means any method of sampling and analyzing for a regulated pollutant as specified in 40 CFR part 52, 60, 61 or 63.
- "Regional Agency" means the Lane Regional Air Protection Agency
- "Regulated air pollutant" or "Regulated Pollutant":
 - A. Except as provided in subsections B., ~~and C.~~, and D. means:
 - (1) Nitrogen oxides or any VOCs;
 - (2) Any pollutant for which an ambient air quality standard has been promulgated, including precursors of such pollutants;
 - (3) Any pollutant that is subject to any standard promulgated under section 111 of the FCAA;
 - (4) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the FCAA;
 - (5) Any pollutant listed under 44-020 or 40 CFR 68.130; ~~and~~
 - (6) Greenhouse gases; and
 - (7) Toxic air contaminants.
 - B. As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, regulated pollutant means particulate matter, volatile organic compounds, oxides of nitrogen and sulfur dioxide:
 - C. As used in LRAPA ~~¶~~ Title 42, Plant Site Emission Limits, and ~~¶~~ Title 38, New Source Review, regulated pollutant does not include any pollutant listed in LRAPA titles 44 and 46.

D. As used in LRAPA Title 20, Indirect Sources through Title 34, Stationary Source Notification Requirements; and Title 37 Air Contaminant Discharge Permits through Title 51, Air Pollution Emergencies; regulated pollutant means only the air contaminants listed under subsections A.(1) through A.(6).

- "Removal efficiency" means the performance of an air pollution control device in terms of the ratio of the amount of the regulated pollutant removed from the airstream to the total amount of regulated pollutant that enters the air pollution control device.
- "Renewal" means the process by which a permit is reissued at the end of its term.
- "Residual fuel oil" means any oil meeting the specifications of ASTM Grade 4, Grade 5 or Grade 6 fuel oils.
- "Responsible official" means one of the following:
 - A. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - (1) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - (2) The delegation of authority to such representative is approved in advance by DEQ or LRAPA.
 - B. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
 - C. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of LRAPA title 12, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of EPA (e.g., a Regional Administrator of the EPA); or
 - D. For affected sources:
 - (1) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the FCAA or the regulations promulgated there under are concerned; and
 - (2) The designated representative for any other purposes under the Oregon Title V Operating Permit program.

- "Reviewing agency", where found in the federal rule, means LRAPA, the DEQ, or the EPA, as applicable.
- "Secondary emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:
 - A. Emissions from ships and trains coming to or from a facility;
 - B. Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.
- "Section 111" means section of the FCAA, 42 U.S.C. § 7411, which includes Standards of Performance for New Stationary Sources (NSPS).
- "Section 111(d)" means subsection 111(d) of the FCAA, 42 U.S.C. § 7411(d), which requires states to submit to the EPA plans that establish standards of performance for existing sources and provides for implementing and enforcing such standards.
- "Section 112" means section 112 of the FCAA, 42 U.S.C. § 7412, which contains regulations for Hazardous Air Pollutants
- "Section 112(b)" means that subsection of the FCAA, 42 U.S.C. § 7412(b), which includes the list of hazardous air pollutants to be regulated.
- "Section 112(d)" means subsection of the FCAA, 42 U.S.C. § 7412(d), which directs the EPA to establish emissions standards for sources of Hazardous Air Pollutants. This section also defines the criteria to be used by EPA when establishing the emission standards.
- "Section 112(e)" means subsection of the FCAA, 42 U.S.C. § 7412(e), which directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit Hazardous Air Pollutants.
- "Section 112(r)(7)" means subsection 112(r)(7) of the FCAA, 42 U.S.C. § 7412(r)(7), which requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.
- "Section 114(a)(3)" means subsection 114(a)(3) of the FCAA, 42 U.S.C. § 7414(a)(3), which requires enhanced monitoring and submission of compliance certifications for major sources.
- "Section 129" means section of the FCAA, 42 U.S.C. § 7429, which requires EPA to promulgate regulations for solid waste combustion.
- "Section 129(e)" means subsection 129(e) of the FCAA, 42 U.S.C. § 7429(e), which requires solid waste incineration units to obtain LRAPA Title V Operating Permits.

- "Section 182(f)" means subsection 182(f) of the FCAA, 42 U.S.C. § 7511a(f), which requires states to include plan provisions in the SIP for NO_x in ozone nonattainment areas.
- "Section 182(f)(1)" means subsection 182(f)(1) of the FCAA, 42 U.S.C. § 7511a(f)(1), which requires states to apply those plan provisions developed for major VOC sources and major NO_x sources in ozone nonattainment areas.
- "Section 183(e)" means subsection 183(e) of the FCAA, 42 U.S.C. § 7511b(e), which requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.
- "Section 183(f)" means subsection 183(f) of the FCAA, 42 U.S.C. § 7511b(f), which requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.
- "Section 184" means section 184 of the FCAA, 42 U.S.C. § 7511c, which contains regulations for the control of interstate ozone air pollution.
- "Section 302" means section 302 of the FCAA, 42 U.S.C. § 7602, which contains definitions for general and administrative purposes in the FCAA.
- "Section 302(j)" means subsection 302(j) of the FCAA, 42 U.S.C. § 7602(j), which contains definitions of "major stationary source" and "major emitting facility."
- "Section 328" means section 328 of the FCAA, 42 U.S.C. § 7627, which contains regulations for air pollution from outer continental shelf activities.
- "Section 408(a)" means subsection 408(a) of the FCAA, 42 U.S.C. § 7651g(a), which contains regulations for the Title IV permit program.
- "Section 502(b)(10) change" means a change which contravenes an expressed Title V permit term but is not a change that:
 - A. Would violate applicable requirements;
 - B. Would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or
 - C. Is a FCAA Title I modification.
- "Section 504(b)" means subsection 504(b) of the FCAA, 42 U.S.C. § 7661c(b), which states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.
- "Section 504(e)" means subsection 504(e) of the FCAA, 42 U.S.C. § 761c(e), which contains regulations for permit requirements for temporary sources.

- "Significant emission rate" or "SER," except as provided in subsections A and B, means an emission rate equal to or greater than the rates specified for the regulated pollutants in Table 2 below:

TABLE 2 LRAPA Title 12 SIGNIFICANT EMISSION RATES FOR POLLUTANTS REGULATED UNDER THE CLEAN AIR ACT		
Row	Pollutant	Emission Rate
(a)	Greenhouse gases (CO ₂ e)	75,000 tons/year
(b)	Carbon monoxide except as noted in row (c) below	100 tons/year
(c)	Carbon monoxide in a serious nonattainment area, provided LRAPA has determined that stationary sources contribute significantly to carbon monoxide levels in that area	50 tons/year
(d)	Nitrogen oxides (NO _x)	40 tons/year
(e)	Particulate matter	25 tons/year
(f)	PM ₁₀	15 tons/year
(g)	Direct PM _{2.5}	10 tons/year
(h)	PM _{2.5} precursors (NO _x or SO ₂)	40 tons/year
(i)	Sulfur dioxide (SO ₂)	40 tons/year
(j)	Ozone precursors (VOC or NO _x), except as noted in rows (k) and (l), below:	40 tons/year
(k)	Ozone precursors in a serious or severe ozone nonattainment area	25 tons/year
(l)	Ozone precursors in an extreme ozone nonattainment area	Any emissions increase
(m)	Lead	0.6 ton/year
(n)	Fluorides	3 tons/year
(o)	Sulfuric acid mist	7 tons/year
(p)	Hydrogen sulfide	10 tons/year
(q)	Total reduced sulfur (including hydrogen sulfide)	10 tons/year
(r)	Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year
(s)	Municipal waste combustor organics (measured as total tetra-through octa- chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035 ton/year
(t)	Municipal waste combustor metals (measured as particulate matter)	15 tons/year
(u)	Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40 tons/year
(v)	Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tons/year
(w)	Ozone depleting substances in aggregate	100 tons/year

- A. For the regulated pollutants not listed in Table 2 above, the SER is zero unless LRAPA or DEQ determines the rate constitutes a SER.
- B. Any new source or modification with an emissions increase less than the rates specified

above that is located within 10 kilometers of a Class I area, and would have an impact on such an area equal to or greater than 1 ug/m³ (24 hour average) is emitting at a SER. This subsection does not apply to greenhouse gas emissions.

- "Significant impact" means an additional ambient air quality concentration equal to or greater than the significant impact level. For sources of VOC or NO_x, source has a significant impact if it is located within the ozone impact distance defined in LRAPA title 40.
- "Significant impact level" or "SIL" means the ambient air quality concentrations listed in Table 1 below. The threshold concentrations listed below are used for comparison against the ambient air quality standards and PSD increments established under OAR 340 division 202 or LRAPA title 50, but do not apply for protecting air quality related values, including visibility.

TABLE 1				
LRAPA Title 12				
SIGNIFICANT IMPACT LEVEL:				
Pollutant	Averaging Time	Air Quality Area Designation		
		Class I	Class II	Class III
SO ₂ (µg/m ³)	Annual	0.10	1.0	1.0
	24-hour	0.20	5.0	5.0
	3-hour	1.0	25.0	25.0
	1-hour	---	8.0	---
PM ₁₀ (µg/m ³)	Annual	0.20	0.2	0.2
	24-hour	0.30	1.0	1.0
PM _{2.5} (µg/m ³)	Annual	0.06	0.3	0.3
	24-hour	0.07	1.2	1.2
NO ₂ (µg/m ³)	Annual	0.10	1.0	1.0
	1-hour	---	8.0	---
CO (mg/m ³)	8 hour	---	0.5	0.5
	1-hour	---	2.0	2.0

- "Significant impairment" occurs when LRAPA determines that visibility impairment interferes with the management, protection, preservation, or the enjoyment of the visual experience of visitors within a Class I area. LRAPA will make this determination on a case-by-case basis, considering the recommendation of the Federal Land Manager, the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I Area, and the frequency and occurrence of natural conditions that reduce visibility.
- "Small scale local energy project" means:
 - A. A system, mechanism or series of mechanisms located primarily in Oregon that directly or indirectly uses or enables the use of, by the owner or operator, renewable resources including, but not limited to, solar, wind, geothermal, biomass, waste heat

- or water resources to produce energy, including heat, electricity and substitute fuels, to meet a local community or regional energy need in this state;
- B. A system, mechanism or series of mechanisms located primarily in Oregon or providing substantial benefits to Oregon that directly or indirectly conserves energy or enables the conservation of energy by the owner or operator, including energy used in transportation;
 - C. A recycling project;
 - D. An alternative fuel project;
 - E. An improvement that increases the production or efficiency, or extends the operating life, of a system, mechanism, series of mechanisms or project otherwise described in this section, including but not limited to restarting a dormant project;
 - F. A system, mechanism or series of mechanisms installed in a facility or portions of a facility that directly or indirectly reduces the amount of energy needed for the construction and operation of the facility and that meets the sustainable building practices standard established by the State Department of Energy by rule; or
 - G. A project described in subsections A. to F., whether or not the existing project was originally financed under ORS 470, together with any refinancing necessary to remove prior liens or encumbrances against the existing project.
 - H. A project described in subsections A. to G. that conserves energy or produces energy by generation or by processing or collection of a renewable resource.
- "Source" means any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all air contaminant emitting activities that belong to a single major industrial group i.e., that have the same two-digit code, as described in the Standard Industrial Classification Manual, U.S. Office of Management and Budget, 1987, or that support the major industrial group.
 - "Source category":
 - A. Except as provided in subsection B., means all the regulated pollutant emitting activities that belong to the same industrial grouping, i.e., that have the same two-digit code as described in the Standard Industrial Classification Manual, U.S. Office of Management and Budget, 1987.
 - B. As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, means a group of major sources that LRAPA and DEQ determines are using similar raw materials and have equivalent process controls and pollution control device.
 - "Source test" means the average of at least three test runs conducted under DEQ's Source Sampling Manual.

- "Standard conditions" means a gas temperature of sixty-eight (68) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.
- "Startup" and "Shutdown" means the time during which a source or control device is brought into normal operation or normal operation is terminated, respectively.
- "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040 and approved by EPA.
- "State New Source Review" or "State NSR" means the new source review process and requirements under 38-0010 through 38-0038, 38-0245 through 38-0270 and 38-0500 through 38-0540 based on the location and regulated pollutants emitted.
- "Stationary Source" means any building, structure, facility, or installation at a source that emits or may emit any regulated pollutant. Stationary source includes portable sources that are required to have permits under LRAPA title 37.
- "State or State or Local Control Agency", where found in 40 CFR 51.118, means LRAPA or DEQ.
- "Substantial underpayment" means the lesser of 10 percent of the total interim emission fee for the major source or five hundred dollars.
- "Sustainment area" means a geographical area of the state for which LRAPA has ambient air quality monitoring data that shows an attainment or unclassified area could become a nonattainment area but a formal redesignation by EPA has not yet been approved. The presumptive geographic boundary of a sustainment area is the applicable urban growth boundary in effect on the date this rule was last approved by the Board, unless superseded by rule. Sustainment areas are designated by the Board according to LRAPA title 29.
- "Sustainment pollutant" means a regulated pollutant for which an area is designated a sustainment area.
- "Synthetic minor source" means a source that would be classified as a major source under LRAPA title 12, but for limits on its potential to emit regulated pollutants contained in an ACDP or Title V permit issued by LRAPA.
- "Title I modification" means one of the following modifications ~~pursuant to~~under Title I of the FCAA:
 - A. A major modification subject to Section 38-0050, Requirements for Sources in Nonattainment Areas or Section 38-0055, Requirements for Sources in Reattainment Areas;

- B. A major modification subject to Section 38-0060, Requirements for Sources in Maintenance Areas;
 - C. A major modification subject to Section 38-0070, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas or Section 38-0045 Requirements for Sources in Sustainment Areas;
 - D. A modification that is subject to a New Source Performance Standard under Section 111 of the FCAA; or
 - E. A modification under Section 112 of the FCAA.
- "Total reduced sulfur (TRS)" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present, expressed as hydrogen sulfide (H₂S).
 - "Toxic air contaminant" means an air pollutant that has been determined by the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health and is listed in OAR 340-245-8020 Table 2.
 - "Type A State NSR" means State NSR as specified in 38-0010(2)(a).
 - "Type B State NSR" means State NSR that is not Type A State NSR.
 - "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit under 32-008.
 - "Unassigned emissions" means the amount of emissions that are in excess of the PSEL but less than the netting basis.
 - "Unavoidable" or "could not be avoided" means events which are not caused entirely or in part by design, operation, maintenance, or any other preventable condition in either process or control device.
 - "Unclassified area" or "attainment area" means an area that has not otherwise been designated by EPA as nonattainment with ambient air quality standards for a particular regulated pollutant. Attainment areas or unclassified areas may also be referred to as sustainment or maintenance areas as designated in LRAPA title 29. Any particular location may be part of an attainment area or unclassified area for one regulated pollutant while also being in a different type of designated area for another regulated pollutant.
 - "Uncombined Water" means water which is not chemically bound to a substance.
 - "Upset" or "Breakdown" means any failure or malfunction of any pollution control device or operating equipment that may cause excess emissions.

- "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.
- "Veneer dryer" means equipment in which veneer is dried.
- "Visibility impairment" means any humanly perceptible change in visual range, contrast or coloration from that which existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.
- "Volatile organic compound" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

A. This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

- (1) methane;
- (2) ethane;
- (3) methylene chloride (dichloromethane);
- (4) dimethyl carbonate; propylene carbonate;
- (5) 1,1,1-trichloroethane (methyl chloroform);
- (6) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
- (7) trichlorofluoromethane (CFC-11);
- (8) dichlorodifluoromethane (CFC-12);
- (9) chlorodifluoromethane (HCFC-22);
- (10) trifluoromethane (HFC-23);
- (11) 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);
- (12) chloropentafluoroethane (CFC-115);
- (13) 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123);
- (14) 1,1,1,2-tetrafluoroethane (HFC-134a);
- (15) 1,1-dichloro-1-fluoroethane (HCFC-141b);
- (16) 1-chloro-1,1-difluoroethane (HCFC-142b);
- (17) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
- (18) HCFC 225ca and cb;
- (19) HFC 43-10mee;
- (20) pentafluoroethane [2] (HFC-125);
- (21) 1,1,2,2-tetrafluoroethane (HFC-134);
- (22) 1,1,1-trifluoroethane (HFC-143a);
- (23) 1,1-difluoroethane (HFC-152a);
- (24) perchlorobenzotrifluoride (PCBTF);
- (25) cyclic, branched, or linear completely methylated siloxanes;
- (26) acetone;
- (27) perchloroethylene (tetrachloroethylene);
- (28) 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
- (29) 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
- (30) 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
- (31) difluoromethane (HFC-32);
- (32) ethylfluoride (HFC-161);

- (33) 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
- (34) 1,1,2,2,3-pentafluoropropane (HFC-245ca);
- (35) 1,1,2,3,3-pentafluoropropane (HFC-245ea);
- (36) 1,1,1,2,3-pentafluoropropane (HFC-245eb);
- (37) 1,1,1,3,3-pentafluoropropane (HFC-245fa);
- (38) 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
- (39) 1,1,1,3,3-pentafluorobutane (HFC-365mfc);
- (40) chlorofluoromethane (HCFC-31);
- (41) 1 chloro-1-fluoroethane (HCFC-151a);
- (42) 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
- (43) 1,1,1,2,2,3,3,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃);
- (44) 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃);
- (45) 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅);
- (46) 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅);
- (47) methyl acetate;
- (48) 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C₃F₇OCH₃, HFE-7000);
- (49) 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500);
- (50) 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea);
- (51) methyl formate (HCOOCH₃);
- (52) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300);
- (53) propylene carbonate;
- (54) dimethyl carbonate;
- (55) *trans* -1,3,3,3-tetrafluoropropene (also known as HFO-1234ze);
- (56) HCF₂ OCF₂ H (HFE-134);
- (57) HCF₂ OCF₂ OCF₂ H (HFE-236cal2);
- (58) HCF₂ OCF₂ CF₂ OCF₂ H (HFE-338pcc13);
- (59) HCF₂ OCF₂ OCF₂ CF₂ OCF₂ H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));
- (60) *trans* 1-chloro-3,3,3-trifluoroprop-1-ene (also known as SolsticeTM 1233zd(E));
- (61) 2,3,3,3-tetrafluoropropene (also known as HFO-1234yf);
- (62) 2-amino-2-methyl-1-propanol;
- (63) T-Butyl Acetate (TBAC);
- (64) CHF₂CF₂OCH₂CF₃ (HFE-347pcf2); and
- (65) perfluorocarbon compounds which fall into these classes:
 - (i) Cyclic, branched, or linear, completely fluorinated alkanes;
 - (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
 - (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
 - (iv) Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

- B. For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method under DEQ's Source Sampling Manual. Where such a method also measures compounds with negligible photochemical reactivity, the latter may be excluded as VOC if the amount of such compounds is accurately quantified, and LRAPA approves the exclusion.
- C. LRAPA may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of LRAPA, the amount of negligibly reactive compounds in the source's emissions.
- "Wood-fired veneer dryer" means a veneer dryer that is directly heated by the products of combustion of wood fuel in addition to or exclusive of steam or natural gas or propane combustion.
 - "Wood fuel-fired device" means a device or appliance designed for wood fuel combustion, including cordwood stoves, woodstoves and fireplace stove inserts, fireplaces, wood fuel-fired cook stoves, pellet stoves and combination fuel furnaces and boilers that burn wood fuels.
 - "Year", unless otherwise defined, means any consecutive 12 month period of time.

Section 12-010 Abbreviations and Acronyms

- "AAQS" means ambient air quality standard.
- "ACDP" means Air Contaminant Discharge Permit.
- "ACT" means Federal Clean Air Act.
- "AE" means Actual Emissions.
- "AICPA" means Association of Independent Certified Public Accountants.
- "AQCR" means Air Quality Control Region.
- "AQRV" means Air Quality Related Value
- "AQMA" means Air Quality Maintenance Area.
- "ASME" means American Society of Mechanical Engineers.
- "ASTM" means American Society for Testing & Materials.
- "ATETP" means Automotive Technician Emission Training Program.
- "AWD" means all wheel drive.
- "BACT" means Best Available Control Technology.
- "BART" means Best Available Retrofit Technology.
- "BLS" means black liquor solids.
- "CAA" means Clean Air Act
- "CAR" means control area responsible party.
- "CBD" means central business district.
- "CCTMP" means Central City Transportation Management Plan.
- "CEM" means continuous emissions monitoring.
- "CEMS" means continuous emission monitoring system.
- "CERCLA" means Comprehensive Environmental Response Compensation and Liability Act.
- "CFRMS" means continuous flow rate monitoring system.

- "CFR" means Code of Federal Regulations.
- "CMS" means continuous monitoring system.
- "CO" means carbon monoxide.
- "CO₂e" means carbon dioxide equivalent
- "COMS" means continuous opacity monitoring system.
- "CPMS" means continuous parameter monitoring system.
- "DEQ" means Oregon Department of Environmental Quality.
- "DOD" means Department of Defense.
- "EA" means environmental assessment.
- "ECO" means employee commute options.
- "EEAF" means emissions estimate adjustment factor.
- "EF" means emission factor.
- "EGR" means exhaust gas re-circulation.
- "EIS" means Environmental Impact Statement
- "EPA" means Environmental Protection Agency.
- "EQC" means Environmental Quality Commission.
- "ESP" means electrostatic precipitator.
- "FCAA" means Federal Clean Air Act.
- "FHWA" means Federal Highway Administration.
- "FONSI" means finding of no significant impact.
- "FTA" means Federal Transit Administration.
- "GFA" means gross floor area.
- "GHG" means greenhouse gases
- "GLA" means gross leasable area.
- "GPM" means grams per mile.
- "gr/dscf" means grains per dry standard cubic foot.
- "GTBA" means grade tertiary butyl alcohol.
- "GVWR" means gross vehicle weight rating.
- "HAP" means hazardous air pollutant.
- "HEPA" means high efficiency particulate air.
- "HMIWI" means hospital medical infectious waste incinerator.
- "I/M" means inspection and maintenance program.
- "IG" means inspection grade.
- "IRS" means Internal Revenue Service.
- "ISECP" means indirect source emission control program.
- "ISTEA" means Intermodal Surface Transportation Efficiency Act.
- "LAER" means Lowest Achievable Emission Rate.
- "LDT2" means light duty truck 2.
- "LIDAR" means laser radar; light detection and ranging.
- "LPG" means liquefied petroleum gas.
- "LRAPA" means Lane Regional Air Protection Agency.
- "LUCS" means Land Use Compatibility Statement.
- "MACT" means Maximum Achievable Control Technology.
- "MPO" means Metropolitan Planning Organization.
- "MTBE" means methyl tertiary butyl ether.
- "MWC" means municipal waste combustor.
- "NAAQS" means National Ambient Air Quality Standards.
- "NAICS" means North American Industrial Classification System.

- "NEPA" means National Environmental Policy Act.
- "NESHAP" means National Emissions Standard for Hazardous Air Pollutants.
- "NIOSH" means National Institute of Occupational Safety & Health.
- "NO_x" means nitrogen oxides.
- "NSPS" means New Source Performance Standards.
- "NSR" means New Source Review.
- "NSSC" means neutral sulfite semi-chemical.
- "O₃" means ozone.
- "OAR" means Oregon Administrative Rules.
- "ODOT" means Oregon Department of Transportation.
- "ORS" means Oregon Revised Statutes.
- "OSAC" means orifice spark advance control.
- "OSHA" means Occupational Safety & Health Administration.
- "PCDE" means pollution control device collection efficiency.
- "PEMS" means predictive emission monitoring system.
- "PM" means particulate matter.
- "PM₁₀" means particulate matter less than 10 microns.
- "PM_{2.5}" means particulate matter less than 2.5 microns.
- "POTW" means Publicly Owned Treatment Works.
- "POV" means privately owned vehicle.
- "ppm" means parts per million.
- "PSD" means Prevention of Significant Deterioration.
- "PSEL" means Plant Site Emission Limit.
- "QIP" means quality improvement plan.
- "RACT" means Reasonably Available Control Technology.
- "ROI" means range of influence.
- "RVCOG" means Rogue Valley Council of Governments.
- "RWOC" means running weighted oxygen content.
- "scf" means standard cubic feet.
- "SCS" means speed control switch.
- "SD" means standard deviation.
- "SERP" means source emission reduction plan.
- "SIC" means Standard Industrial Classification from the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987).
- "SIP" means State Implementation Plan.
- "SLAMS" means State or Local Air Monitoring Stations.
- "SO₂" means sulfur dioxide.
- "SOCMI" means synthetic organic chemical manufacturing industry.
- "SOS" means Secretary of State.
- "SPMs" means Special Purpose Monitors.
- "TAC" means thermostatic air cleaner.
- "TACT" means Typically Achievable Control Technology.
- "TCM" means transportation control measures.
- "TCS" means throttle control solenoid.
- "TIP" means Transportation Improvement Program.
- "tpy" means tons per year.
- "TRS" means total reduced sulfur.
- "TSP" means total suspended particulate matter.

- "UGA" means urban growth area.
- "UGB" means urban growth boundary.
- "USC" means United States Code.
- "US DOT" means United States Department of Transportation.
- "UST" means underground storage tanks.
- "UTM" means universal transverse mercator.
- "VIN" means vehicle identification number.
- "VMT" means vehicle miles traveled.
- "VOC" means volatile organic compounds.

Section 12-020 Exceptions

- (1) Except as provided in subsection (2), LRAPA Rules and Regulations do not apply to:
- (a) Agricultural operations, including but not limited to:
 - (A) Growing or harvesting crops;
 - (B) Raising fowl or animals;
 - (C) Clearing or grading agricultural land;
 - (D) Propagating and raising nursery stock;
 - (E) Propane flaming of mint stubble; and
 - (F) Stack or pile burning of residue from Christmas trees, as defined in ORS 571.505, during the period beginning October 1 and ending May 31 of the following year.
 - (b) Equipment used in agricultural operations, except boilers used in connection with propagating and raising nursery stock.
 - (c) Barbeque equipment used in connection with any residence.
 - (d) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families, except woodstoves which shall be subject to regulation under OAR 340 division 262, and as provided in ORS 468A.020(1)(d). Emissions from woodstoves can be used to create emission reduction credits in title 41.
 - (e) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or instruction of employees in the methods of fire fighting, which in the opinion of the agency is necessary.
 - (f) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.
- (2) Section (1) does not apply to the extent:

- (a) Otherwise provided in ORS 468A.555 to 468A.620, 468A.790, 468A.992, 476.380 and 478.960;
- (b) Necessary to implement the ~~f~~Federal Clean Air Act (P.L. 88-206 as amended) under ORS 468A.025, 468A.030, 468A.035, 468A.040, 468A.045 and 468A.300 to 468A.330; or
- (c) Necessary for LRAPA, in the Board's discretion, to implement a recommendation to the Task Force on Dairy Air Quality created under section 3, chapter 799, Oregon Laws 2007, for the regulation of dairy air contaminant emissions.

Section 12-025 Reference Materials

As used in LRAPA Rules and Regulations, the following materials refer to the versions listed below.

- (1) "CFR" means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, ~~2016~~2018 edition.
- (2) The DEQ Source Sampling Manual refers to the ~~March 2015~~November 2018 edition.
- (3) The DEQ Continuous Monitoring Manual refers to the March 2015 edition.

Section 12-030 Compliance Schedules for Existing Sources Affected by New Rules

- (1) No existing source of air contaminant emissions will be allowed to operate out of compliance with the provisions of new rules, unless the owner or operator of that source first obtains a Board-approved compliance schedule which lists the steps being taken to achieve compliance and the final date when compliance will be achieved. Approval of a reasonable time to achieve compliance shall be at the discretion of the Board.
- (2) The owner or operator of any existing air contaminant source found by the Director to be in non-compliance with the provisions of new rules shall submit to the Board for approval a proposed schedule of compliance to meet those provisions. This schedule shall be in accordance with timetables contained in the new rules or in accordance with an administrative order by the Director. This schedule shall contain, as necessary, reasonable time milestones for engineering, procurement, fabrication, equipment installation and process refinement. This request shall also contain documentation of the need for the time extension to achieve compliance and the justification for each of the milestones indicated in the schedule.
- (3) Within one hundred and twenty (120) days of the submittal date of the request, the Board shall act to either approve or disapprove the request. A schedule for compliance becomes effective upon the date of the written order of the Board.
- (4) Compliance schedules of longer than eighteen (18) months' duration shall contain requirements for periodic reporting of progress toward compliance.

- (5) An owner or operator of an air contaminant source operating in non-compliance with these rules, but under an approved compliance schedule, who fails to meet that schedule or make reasonable progress toward completion of that schedule, shall be subject to enforcement procedures in accordance with these rules.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 15

ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

Section 15-001 Policy

- (1) The goals of enforcement are to:
 - (a) Obtain and maintain compliance with LRAPA's statutes, rules, permits and orders;
 - (b) Protect the public health and the environment;
 - (c) Deter future violators and violations; and
 - (d) Ensure an appropriate and consistent enforcement program.
- (2) As required by this title, LRAPA will endeavor by conference, conciliation and persuasion to solicit compliance.
- (3) LRAPA shall address all documented violations in order of seriousness at the most appropriate level of enforcement necessary to achieve the goals set forth in subsection (1).
- (4) Violators who do not comply with an initial enforcement action shall be subject to increasing levels of enforcement until compliance is achieved.

Section 15-003 Scope of Applicability

These amendments shall apply to violations occurring on or after the effective date of such amendments. They shall not apply to cases pending. For purposes of determining Class and Magnitude of violation, only, LRAPA rules and regulations in effect prior to these amendments shall apply to violations occurring before the effective date of these amendments. For purposes of determining number and gravity of prior violations, these amendments will apply.

Section 15-005 Definitions

Words and terms used in this title are defined as follows, unless the context requires otherwise:

- "Alleged Violation" means any violation cited in a written notice issued by LRAPA or other government agency.
- "Class I Equivalent" or "Equivalent," which is used only for the purposes of determining the value of the "P" factor in the civil penalty formula, means two Class II violations, one Class II and two Class III violations, or three Class III violations.

- "Compliance" means meeting the requirements of LRAPA's or DEQ's, EQC's or EPA's rules, permits, permit attachments or orders.
- "Conduct" means an act or omission.
- "Documented Violation" means any violation which LRAPA or other government agency records after observation, investigation or data collection.
- "Enforcement" means any documented action taken to address a violation.
- "Federal Operating Permit Program" means a program approved by the DEQ Administrator under 40 CFR part 70.
- "Flagrant" means any documented violation where the Respondent had actual knowledge of the law and consciously set out to commit the violation.
- "Formal Enforcement Action" means an administrative action signed by the Director or authorized representative which is issued to a Respondent for a documented violation. A formal enforcement action may require the Respondent to take specific action within a specified time frame and/or state the consequences for previous and continued non-compliance.
- "Intentional" means conduct by a person with a conscious objective to cause the result of the conduct.
- "Magnitude of the Violation" means the extent of a violator's deviation from federal, state and LRAPA's statutes, rules, standards, permits or orders.
- "Negligence" or "negligent" means failing to take reasonable care to avoid a foreseeable risk of committing an act or omission constituting a violation.
- "Notice of Civil Penalty Assessment" (NCP) means a notice provided under LRAPA 15-020(3) to notify a person that LRAPA has initiated a formal enforcement action that includes a financial penalty.
- "Order" means a notice provided under subsection 15-020(4).
- "Person" means any individual, public or private corporation, political subdivision, agency, board, department, or bureau of the state, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- "Prior Violation" means any violation established, with or without admission, by payment of a civil penalty, by an order of default, or by a stipulated or final order of LRAPA.
- "Reckless" or "recklessly" means conduct by a person who is aware of and consciously disregards a substantial and unjustifiable risk that the result would occur or that the

circumstance existed. The risk must be of such a nature and degree that disregarding that risk constitutes a gross deviation from the standard of care a reasonable person would observe in that situation.

- "Residential Owner-Occupant" means the natural person who owns or otherwise possesses a single family dwelling unit, and who occupies that dwelling at the time of the alleged violation. The violation must involve or relate to the normal uses of a dwelling unit.
- "Respondent" means the person named in a formal enforcement action (FEA).
- "Violation" means a transgression of any statute, rule, order, license, permit, permit attachment, or any part thereof, and includes both acts and omissions.
- "Willful" means the respondent had a conscious objective to cause the result of the conduct and the respondent knew or had reason to know that the result was not lawful.

Section 15-010 Consolidation of Proceedings

Notwithstanding that each and every violation is a separate and distinct offense and that, in cases of continuing violation, each day's continuance is a separate and distinct violation, proceedings for the assessment of multiple civil penalties for multiple violations may be consolidated into a single proceeding.

Section 15-015 Notice of Violation

When the Director or the Board has cause to believe that a violation has occurred, the Director or authorized representative may document the violation and initiate any of the enforcement actions described in sections 15-018 and 15-020 by serving the appropriate notice to the responsible party or Respondent according to ORS 183 and these rules and regulations. Cause to believe a violation has occurred can be prima facie evidence based on first-hand observations, reports of observations by citizens or government officials, results of tests, instrument reading or any other evidence which the Director finds, in his discretion, to be sufficient to constitute cause to believe.

Section 15-018 Notice of Permit Violations (NPV) and Exceptions

- (1) Prior to assessment of a civil penalty for a violation of the terms or conditions of an Air Contaminant Discharge Permit (ACDP), LRAPA shall provide a Notice of Permit Violation to the permittee. The Notice of Permit Violation shall be in writing, specifying the violation and stating that a civil penalty will be imposed for the permit violation unless the permittee submits one of the following to LRAPA within 5 working days of receipt of the Notice of Permit Violation:
 - (a) A written response from the permittee acceptable to LRAPA certifying that the permitted facility is complying with all terms of the permit from which the violation is cited. The certification shall include a sufficient description of the information on which the permittee is certifying compliance to enable LRAPA to determine that compliance has been achieved.

- (b) A written proposal, acceptable to LRAPA, to bring the facility into compliance with the permit. An acceptable proposal under this rule shall include at least the following:
 - (A) Proposed compliance dates;
 - (B) Proposed date to submit a detailed compliance schedule;
 - (C) A description of the interim steps that will be taken to reduce the impact of the permit violation until the permitted facility is in compliance with the permit;
 - (D) A statement that the permittee has reviewed all other conditions and limitations of the permit, and no other violations of the permit were discovered by the permittee.
- (c) In the event that any compliance schedule to be approved by LRAPA, ~~pursuant to~~ under paragraph (1)(b), provides for a compliance period of greater than 6 months, LRAPA shall incorporate the compliance schedule into an Order described in paragraph 15-020(4)(a) which provides for stipulated penalties in the event of any non-compliance therewith. Stipulated penalties shall not apply to circumstances beyond the reasonable control of the permittee. Stipulated penalties may also be required for compliance periods of less than or equal to 6 months. The stipulated penalties shall be set at amounts consistent with those established under section 15-045.
- (d) The certification allowed in paragraph (1)(a) shall be signed by a Responsible Official, based on information and belief after making reasonable inquiry. For purposes of this rule, "Responsible Official" of the permitted facility means one of the following:
 - (A) For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the manager of one or more manufacturing, production, or operating facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (B) For a partnership or sole proprietorship, a general partner or the proprietor, respectively.
 - (C) For a municipality, state, federal, or other public agency, either a principal executive officer or appropriate elected official.
- (2) No advance notice prior to assessment of a civil penalty shall be required under subsection (1), and LRAPA may issue a Notice of Civil Penalty Assessment (NCP), without any preconditions, if:
 - (a) The violation is intentional;
 - (b) The violation would not normally occur for 5 consecutive days;
 - (c) The permittee has received a Notice of Permit Violation or other formal enforcement

action with respect to any violation of the permit within 36 months immediately preceding the alleged violation;

- (d) The permittee is subject to the Oregon Title V operating permit program and violates any rule or standard adopted or any permit or order issued under ORS 468.A and applicable to the permittee; or
- (e) The requirement to provide an NPV would disqualify a state program from federal approval or delegation. The permits and permit conditions to which this NPV exception applies include:
 - (A) Air Contaminant Discharge Permit (ACDP) conditions that implement the State Implementation Plan under the Federal Clean Air Act (FCAA);
- (f) The permittee has an ACDP and violates any New Source Performance Standard (NSPS) or National Emission Standards for Hazardous Air Pollutants (NESHAP) requirement contained in the permit.

For purposes of this section, "permit" includes permit renewals and modifications, and no such renewal or modification shall result in the requirement that LRAPA provide the permittee with an additional advance warning if the permittee has received a Notice of Permit Violation or other formal enforcement action with respect to the permit within 36 months immediately preceding the alleged violation.

Section 15-020 Enforcement Actions

(1) Notice of Non-compliance (NON):

- (a) Informs a person of a violation and the consequences of the violation or continued non-compliance. The notice may state the actions required to resolve the violation and may specify a time by which compliance is to be achieved. The notice may state that further enforcement action may, or will be taken.
- (b) Shall be issued under the direction of the Director or authorized representative.
- (c) Shall be issued for, but is not limited to, all classes of documented violations.
- (d) May be issued prior to issuance of a Notice of Civil Penalty or an Order.

(2) Notice of Permit Violation (NPV):

- (a) Is issued ~~pursuant to~~under section 15-018.
- (b) Shall be issued by the Director or authorized representative.
- (c) Shall be issued for, but is not limited to, the first occurrence of a documented Class I permit violation which is not excepted under subsection 15-018(2), or the repeated or continuing occurrence of documented Class II or III permit violations not excepted

under subsection 15-018(2), or where a NON has failed to achieve compliance or satisfactory progress toward compliance. A permittee shall not receive more than three NONs for Class II violations of the same permit within a 36 month period without being issued an NPV.

(3) Notice of Civil Penalty Assessment (NCP):

- (a) Is issued ~~pursuant to~~under ORS 468.130, ORS 468.140, and sections 15-015, 15-025 and 15-030.
- (b) Shall be issued by the Director or authorized representative.
- (c) May be issued for, but is not limited to, the occurrence of any class of documented violation that is not limited by the NPV requirement of section 15-018.

(4) Order:

- (a) Is issued ~~pursuant to~~under ORS Chapters 183, 468, or 468A, and title 14;
- (b) May be in the form of a Board or Director Order or a Stipulation and Final Order (SFO):
 - (A) Board Orders shall be issued by the Board, or by the Director on behalf of the Board;
 - (B) Director Orders shall be issued by the Director or authorized representative;
 - (C) All Other Orders:
 - (i) May be negotiated;
 - (ii) Shall be signed by the Director or authorized representative and the authorized representative of each other party.
- (c) May be issued for any class of violations.

(5) The enforcement actions described in subsections (1) through (4) shall not limit the Director or Board from seeking legal or equitable remedies as provided by ORS Chapters 468 and 468A.

Section 15-025 Civil Penalty Schedule Matrices

(1) In addition to any liability, duty or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to the Board's and Director's authorizing rules, regulations, permits or orders by service of a written Notice of Civil Penalty Assessment upon the Respondent. Except for civil penalties assessed under sections 15-045 and 15-050 (stipulated or intentional/reckless), or title 16, the amount of any civil penalty shall be determined through the use of the following matrices, in conjunction with the formula

contained in section 15-030:

(a) \$12,000 Penalty Matrix:

Magnitude	Major	Moderate	Minor
Class I	\$12,000	\$6,000	\$3,000
Class II	\$6,000	\$3,000	\$1,500
Class III	\$1,000	\$1,000	\$1,000

(A) The \$12,000 penalty matrix applies to the following:

- (i) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued ~~pursuant to~~ under New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the Federal Clean Air Act.
- (ii) Outdoor burning violations as follows:
 - (I) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit;
 - (II) Any violation of paragraph 47-015(1)(e) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(b) \$8,000 Penalty Matrix:

Magnitude	Major	Moderate	Minor
Class I	\$8,000	\$4,000	\$2,000
Class II	\$4,000	\$2,000	\$1,000
Class III	\$700	\$700	\$700

(A) The \$8,000 penalty matrix applies to the following:

- (i) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have an ACDP, except for NSR, PSD, and Basic ACDP permits unless listed under another penalty matrix;
- (ii) Any violation of an asbestos statute, rule, permit or related order except those violations listed in sub-subparagraph (d)(A)(ii) of this rule.

(c) \$3,000 Penalty Matrix:

Magnitude	Major	Moderate	Minor
Class I	\$3,000	\$1,500	\$750
Class II	\$1,500	\$750	\$375
Class III	\$250	\$250	\$250

(A) The \$3,000 penalty matrix applies to the following:

- (i) Any violation of an air quality statute, rule, permit, permit attachment, license, or related order committed by a person not listed under another penalty matrix;
- (ii) Any violation of an air quality statute, rule, permit, permit attachment, -or related order committed by a person that has or should have a Basic ACDP or an ACDP or registration only because the person is subject to Area Source NESHAP regulations; or
- (iii) Any violation of paragraph 47-015(1)(e) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(d) \$1,000 Penalty Matrix:

Magnitude	Major	Moderate	Minor
Class I	\$1,000	\$500	\$250
Class II	\$500	\$250	\$125
Class III	\$100	\$100	\$100

(A) The \$1,000 penalty matrix applies to the following:

- (i) Any violation of an outdoor burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix;
- (ii) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.
- (iii) Any violation of OAR 340-262-0900(1) or OAR 340-262-0900(2) committed by a residential owner-occupant at the residence.

Section 15-030 Civil Penalty Determination Procedure (Mitigating and Aggravating

Factors)

(1) When determining the amount of civil penalty to be assessed for any violation, other than violations of title 16 which are determined in title 16, and of ORS 468.996 which are determined according to the procedure set forth below in section 15-050, the Director or authorized representative shall apply the following procedures:

- (a) Determine the class and the magnitude of each violation;
- (b) Choose the appropriate base penalty (BP) established by the matrices of section 15-025 after determining the class and magnitude of each violation;
- (c) Starting with the base penalty (BP), determine the amount of penalty through application of the formula:

$BP + [(.1 \times BP)(P + H + O + M + C)] + EB$ where:

(A) "P" is whether the Respondent has any prior violations of statutes, rules, orders and permits pertaining to environmental quality or pollution control. For the purpose of determining "P," Class I violation or equivalent means two Class II violations, one Class II and two Class III violations, or three Class III violations. The values for "P" and the finding which supports each are as follows:

- (i) 0 if no prior violations or there is insufficient information on which to base a finding;
- (ii) 1 if the prior violation is one Class II or two Class III's; or
- (iii) 2 if the prior violation(s) is one Class I or equivalent.
- (iv) For each additional Class I violation or Class I equivalent, the value of "P" is increased by 1.
- (v) 10 if the prior violations are nine or more class I violations or equivalents, or if any of the prior violations were issued for any violation of ORS 468.996 (Civil Penalty for Intentional or Reckless Violation);
- (vi) The value of "P" will not exceed 10.
- (vii) In determining the appropriate value for prior violations as listed above, LRAPA shall reduce the appropriate factor by:
 - (I) 2 if all the prior violations were issued more than 3 years before the date the current violation occurred;
 - (II) 4 if all the prior violations were issued more than 5 years before the date the current violation occurred.

- (viii) Include all prior violations at all facilities owned or operated by the same violator within the state of Oregon;
 - (ix) The value of "P" may not be reduced below 0;
 - (x) Any prior violation which occurred more than 10 years prior to the time of the present violation shall not be included in the above determination.
- (B) "H" is past history of the Respondent in taking all feasible steps or procedures necessary or appropriate to correct any prior violations. The sum of the values for "P" and "H" may not be less than one unless the Respondent took extraordinary efforts to correct or minimize the effects of all prior violations. In no case shall the combination of the "P" factor and the "H" factor be a value less than zero. In such cases where the sum of the "P" and "H" values is a negative numeral, the finding and determination for the combination of these two factors shall be zero. The values for "H" and the finding which supports each are as follows:
- (i) -2 if Respondent corrected each prior violation;
 - (ii) -1 if violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as prior violations;
 - (iii) 0 if there is no prior history or if there is insufficient information on which to base a finding;
- (C) "O" is whether the violation was repeated or continuous ongoing. A violation can be repeated independently on the same day, thus multiple occurrences may occur within one day. Each repeated occurrence of the same violation and each day of a violation with a duration of more than one day is a separate occurrence when determining the "O" factor. Each separate violation is also a separate occurrence when determining the "O" factor. The values for "O" and the finding which supports each are as follows:
- (i) 0 if there was only one occurrence of the violation or if there is insufficient information on which to base a finding under sub-subparagraphs (C)(ii) through (C)(v);
 - (ii) 2 if there were more than one but less than seven occurrences of the violation;
 - (iii) 3 if there were from seven to 28 occurrences of the violation;
 - (iv) 4 if there were more than 28 occurrences of the violation;
 - (v) LRAPA may, at its discretion, assess separate penalties for each occurrence of a violation. If LRAPA does so, the "O" factor for each affected violation will be set at 0. If LRAPA assesses one penalty for multiple occurrences, the penalty will be based on the highest classification and magnitude applicable

to any of the occurrences.

- (D) "M" is the mental state of the Respondent. For any violation where the findings support more than one mental state, the mental state with the highest value will apply. The values for "M" and the finding that supports each are as follows:
- (i) 0 if there is insufficient information on which to base a finding under sub-subparagraphs (D)(ii) through (D)(iv).
 - (ii) 2 if the Respondent had constructive knowledge (reasonably should have known) that the conduct would be a violation.
 - (iii) 4 if the Respondent's conduct was negligent.
 - (iv) 8 if the Respondent's conduct was reckless or the Respondent acted or failed to act intentionally with actual knowledge of the requirement.
 - (v) 10 if the Respondent acted flagrantly.
- (E) "C" is the Respondent's efforts to correct or mitigate the violation. The values for "C" and the finding which supports each are as follows:
- (i) -5 if the Respondent made extraordinary efforts to correct the violation or to minimize the effects of the violation, and made extraordinary efforts to ensure the violation would not be repeated.
 - (ii) -4 if the Respondent made extraordinary efforts to ensure that the violation would not be repeated.
 - (iii) -3 if the Respondent made reasonable efforts to correct the violation, or took reasonable affirmative efforts to minimize the effects of the violation.
 - (iv) -2 if the Respondent eventually made some efforts to correct the violation, or to minimize the effects of the violation.
 - (v) -1 if the Respondent made reasonable efforts to ensure that the violation would not be repeated.
 - (vi) 0 if there is insufficient information to make a finding under sub-subparagraphs (E)(i) through (E)(v) or (E)(vii) or if the violation or the effects of the violation could not be corrected or minimized.
 - (vii) 2 if the Respondent did not address the violation as described in sub-subparagraphs (E)(i) through (E)(v) and the facts do not support a finding under sub-subparagraph (E)(vii)
- (F) "EB" is the approximated dollar value of the economic benefit gained and the costs avoided or delayed (without duplication) as a result the Respondent's

noncompliance. The EB may be determined using the U. S. Environmental Protection Agency's BEN computer model. LRAPA may make, for use in the model, a reasonable estimate of the benefits gained and the costs avoided or delayed by the respondent.

(Gi) Upon request of the ~~f~~R~~e~~spondent, LRAPA will provide the name of the version of the model used and respond to any reasonable request for information about the content or operation of the model. The model's standard values for income tax rates, inflation rate and discount rate are presumed to apply to all respondents unless a specific ~~f~~R~~e~~spondent can demonstrate that the standard value does not reflect the ~~f~~R~~e~~spondent's actual circumstance.

(Hii) LRAPA need not calculate EB if LRAPA makes a reasonable determination that the EB is de minimis or if there is insufficient information on which to make an estimate under this rule.

(iii) LRAPA may assess EB whether or not it assesses any other portion of the civil penalty using the formula in section 15-030.

(ivJ) LRAPA's calculation of EB may not result in a civil penalty for a violation that exceeds the maximum civil penalty allowed by rule or statute. However, when a violation has occurred or been repeated for more than one day, LRAPA may treat the violation as extending over at least as many days as necessary to recover the economic benefit of the violation.

(K) Regardless of any other penalty amount listed in this title, the ~~d~~D~~i~~rector has the discretion to increase the penalty to \$25,000 per violation per day of violation based upon the facts and circumstances of the individual case.

(2) In addition to the factors listed in subsection (1), the Director may consider any other relevant rule of LRAPA and shall state the effect the consideration had on the penalty. On review, the Board or hearings officer shall consider the factors contained in subsection (1) and any other relevant rule of LRAPA.

(3) The Director or Board may reduce any penalty based on the Respondent's inability to pay the full penalty amount. If the Respondent seeks to reduce the penalty, the Respondent has the responsibility of providing to the Director or Board documentary evidence concerning Respondent's inability to pay the full penalty amount.

(a) When the Respondent is currently unable to pay the full amount, the first option should be to place the Respondent on a payment schedule with interest on the unpaid balance for any delayed payments. The Director or Board may reduce the penalty only after determining that the Respondent is unable to meet a long-term payment schedule.

(b) In determining the Respondent's ability to pay a civil penalty, LRAPA may use the U.S. Environmental Protection Agency ABEL computer model to determine a Respondent's ability to pay the full civil penalty amount. With respect to significant or

substantial change in the model, LRAPA shall use the version of the model that LRAPA finds will most accurately calculate the Respondent's ability to pay a civil penalty. Upon request of the Respondent, LRAPA will provide Respondent the name of the version of the model used and respond to any reasonable request for information about the content or operation of the model.

- (c) In appropriate circumstances, the Director or Board may impose a penalty that may result in a Respondent going out of business. Such circumstances may include situations where the violation is intentional or flagrant or situations where the Respondent's financial condition poses a serious concern regarding its ability or incentive to remain in compliance.

Section 15-035 Written Notice of Civil Penalty Assessment--When Penalty Payable

- (1) A civil penalty shall be due and payable 10 days after the order assessing the civil penalty becomes final and the civil penalty is thereby imposed by operation of law or on appeal. A person against whom a civil penalty is assessed shall be served with a notice in the form and manner provided in ORS 183.415 and section 14-170.
- (2) The written Notice of Civil Penalty Assessment shall comply with ORS 468.135(1) and ORS 183.090, relating to notice and contested case hearing applications, and shall state the amount of the penalty or penalties assessed.
- (3) The rules prescribing procedure in contested case proceedings contained in title 14 shall apply thereafter.

Section 15-040 Compromise or Settlement of Civil Penalty by Director

- (1) Any time after service of the written Notice of Civil Penalty Assessment, the Board or Director may, in their discretion, compromise or settle any unpaid civil penalty at any amount that the Board or Director deems appropriate. A refusal to compromise or settle shall not be subject to review. Any compromise or settlement executed by the Director shall be final, except for major Class I violations with penalties calculated under paragraph 15-025(1)(a), which must be approved by the Board.
- (2) In determining whether a penalty should be compromised or settled, the Board or Director may take into account the following:
 - (a) New information obtained through further investigation or provided by Respondent which relates to the penalty determination factors contained in section 15-030;
 - (b) The effect of compromise or settlement on deterrence;
 - (c) Whether Respondent has or is willing to employ extraordinary means to correct the violation or maintain compliance;
 - (d) Whether Respondent has had any previous penalties which have been compromised or settled;

- (e) Whether the compromise or settlement would be consistent with LRAPA's goal of protecting the public health and environment;
- (f) The relative strength or weakness of LRAPA's case.

Section 15-045 Stipulated Penalties

Nothing in title 15 shall affect the ability of the Board or Director to include stipulated penalties in a Stipulation and Final Order, Consent Order, Consent Decree or any other agreement issued ~~pursuant to~~ under ORS Chapter 468, 468.A or these rules and regulations.

Section 15-050 Additional Civil Penalties

LRAPA may assess additional civil penalties for the following violations as specified below:

LRAPA may assess a civil penalty of up to \$250,000 to any person who intentionally or recklessly violates any provision of ORS 468, 468A, or any rule or standard or order of the Director or Board which results in or creates the imminent likelihood for an extreme hazard to public health or which causes extensive damage to the environment. When determining the civil penalty sum to be assessed under this section, the Director will use the procedures set out below:

- (1) The base penalties listed in subsection 15-050(2) are to be used in lieu of the penalty method in under paragraphs 15-025(1)(a) and (b).
- (2) The following base penalties apply:
 - (a) \$100,000 if the violation was caused intentionally;
 - (b) \$150,000 if the violation was caused recklessly;
 - (c) \$200,000 if the violation was caused flagrantly.
- (3) The civil penalty is calculated using the following formula:

$BP + (.1 \times BP)(P + H + O + C) + EB$, in accordance with the applicable subsections of section 15-030.

Section 15-055 Air Quality Classification of Violation

Violations pertaining to air quality shall be classified as follows:

- (1) Class I
 - (a) Violating a requirement or condition of EQC, DEQ or LRAPA, consent order, agreement, consent judgment (formerly called judicial consent decree), compliance schedule contained in a permit or permit attachment, or variance;

- (b) Submitting false, inaccurate or incomplete information to LRAPA where the submittal masked a violation, caused environmental harm, or caused LRAPA to misinterpret any substantive fact;
- (c) Failing to provide access to premises or records as required by statute, permit, order, consent order, agreement or consent judgment (formerly called judicial consent decree);
- (d) Using fraud or deceit to obtain LRAPA approval, permit, permit attachment, certification, or license;
- (e) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;
- (f) Constructing a new source, as defined in OAR 340-245-0020, without first obtaining a required Air Contaminant Discharge Permit required under OAR 340-245-0005 through 340-245-8050 or without complying with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050;
- (g) Failing to conduct a source risk assessment, as required under OAR 340-245-0050;
- (h) Modifying a source in such a way as to require a permit modification under OAR 340-245-0005 through 340-245-8050, that would increase risk above permitted levels under OAR 340-245-0005 through 340-245-8050 without first obtaining such approval from LRAPA;
- (~~f~~i) Operating a major source, as defined in title 12, without first obtaining the required permit;
- (j) Operating an existing source, as defined in OAR 340-245-0020, after a submittal deadline under OAR 340-245-0030 without having submitted a complete application for a Toxic Air Contaminant Permit Addendum required under OAR 340-245-0005 through 340-245-8050;
- (~~g~~k) Exceeding a Plant Site Emission Limit (PSEL);
- (l) Exceeding a risk limit, including a Source Risk Limit, applicable to a source under OAR 340-245-0100;
- (~~h~~m) Failing to install control equipment or meet emission limits, operating limits, work practice requirements, or performance standards as require by New Source Performance Standards under title 46 or National Emission Standards for Hazardous Air Pollutant Standards under title 44;
- (~~i~~o) Exceeding a hazardous air pollutant emission limit;
- (~~j~~p) Failing to comply with an Emergency Action Plan;

- (~~kq~~) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard that was established ~~pursuant to~~ under New Source Review/Prevention of Deterioration (NSR/PSD);
- (~~hr~~) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in title 12;
- (~~s~~) Exceeding an emission limit or violating an operational limit, process limit, or work practice requirement that was established to limit risk or emissions to avoid exceeding an applicable Risk Action Level or other requirement under OAR 340-245-0005 through 340-245-8050;
- (~~mt~~) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in title 12, when the violation was detected during a reference method stack test;
- (~~nu~~) Failing to perform testing or monitoring required by a permit, permit attachment, rule or order, that results in failure to show compliance with a Plant Site Emission Limit (PSEL), or with an emission limitation or performance standard ~~set pursuant to~~ established under New Source Review/Prevention of Significant Deterioration (NSR/PSD), National Emission Standards for Hazardous Air Pollutants (NESHAP), New Source Performance Standards (NSPS), Reasonably Available Control Technology (RACT), Best achievable Available Control Technology (BACT), Maximum Achievable Control Technology (MACT), Typically Achievable Control Technology (TACT), Lowest Achievable Emission Rate, (LAER) or adopted pursuant to section 111(d) of the Federal Clean Air Act;
- (~~ov~~) Causing emissions that are a hazard to public safety;
- (~~pw~~) Violating a work practice requirement for asbestos abatement projects;
- (~~qx~~) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;
- (~~ry~~) Conducting an asbestos abatement project by a person not licensed as an asbestos abatement contractor;
- (~~sz~~) Violating a title 43 disposal requirement for asbestos-containing waste material;
- (~~taa~~) Failing to hire a licensed contractor to conduct an asbestos abatement project;
- (~~ubb~~) Openly burning materials which are prohibited from being outdoor burned anywhere in Lane County, Oregon by paragraph 47-015(1)(e) or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1); or

~~(vcc)~~ Failing to install or use certified vapor recovery equipment.;

(2) Class II

- (a) Violating any otherwise unclassified requirement;
- (b) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP), ACDP Attachment, or registration without first obtaining such permit or registration, unless otherwise classified;
- (c) Violating the terms or conditions of a permit, permit attachment or license, unless otherwise classified;
- (d) Modifying a source in such a way as to require a permit or permit attachment modification from LRAPA without first obtaining such approval from LRAPA, unless otherwise classified;
- (e) Exceeding an opacity limit, unless otherwise classified;
- (f) Failing to timely submit a complete ACDP annual report or permit attachment annual report;
- (g) Failing to timely submit a certification, report, or plan as required by rule ~~of~~, permit or permit attachment, unless otherwise classified;
- (h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;
- ~~(i) Failing to submit a timely and complete air toxic contaminant emission inventory as required under OAR 340-245-0005 through 340-245-8050;~~
- ~~(j)~~ Failing to comply with the outdoor burning requirements for commercial, construction, demolition, or industrial wastes in violation of title 47;
- ~~(k)~~ Failing to comply with outdoor burning requirements in violation of any provision of title 47, unless otherwise classified or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2);
- ~~(l)~~ Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of Stage I or Stage II vapor collection system;
- ~~(m)~~ Failing to provide timely, accurate or complete notification of an asbestos abatement project; or
- ~~(n)~~ Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project.;

- (a) Failing to perform testing or monitoring required by a permit, permit attachment, rule or order where missing data can be reconstructed to show compliance with standards, emissions limitations or underlying requirements;
- (b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;
- (c) Modifying a source in such a way as to require construction approval from LRAPA without first obtaining such approval from LRAPA, unless otherwise classified;
- (d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified; or
- (e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project.

Section 15-057 Determination of Violation Magnitude

- (1) For each civil penalty assessed, the magnitude is moderate unless:
 - (a) A selected magnitude is specified in section 15-060 and information is reasonably available to LRAPA to determine the application of that selected magnitude; or
 - (b) LRAPA determines using information reasonably available to it, that the magnitude should be major under subsection (3) or minor under subsection (4).
- (2) If LRAPA determines, using information reasonably available to LRAPA, that the general or selected magnitude applies, LRAPA's determination is the presumed magnitude of the violation, but the person against whom the violation is alleged has the opportunity and the burden to prove that a magnitude under subsection (1), (3), or (4) is more probable than the alleged magnitude regardless of whether the magnitude is alleged under sections 15-057 or 15-060.
- (3) The magnitude of the violation is major if LRAPA finds that the violation had a significant adverse impact on human health or the environment. In making this finding, LRAPA will consider all reasonably available information, including, but not limited to: the degree of deviation from applicable statutes or EQC or DEQ and LRAPA rules standards, permits or orders; the extent of actual effects of the violation; the concentration, volume, or toxicity of the materials involved; and the duration of the violation. In making this finding, LRAPA may consider any single factor to be conclusive.
- (4) The magnitude of the violation is minor if LRAPA finds that the violation had no more than a de minimis adverse impact on human health or the environment, and posed no more than a de minimis threat to human health or the environment. In making this finding, LRAPA will consider all reasonably available information including, but not limited to: the degree of deviation from applicable statutes or commission or department of LRAPA rules, standards,

permits or orders; the extent of actual or threatened effects of the violation; the concentration volume, or toxicity of the materials involved; and the duration of the violation.

Section 15-060 Selected Magnitude Categories

Magnitudes for selected violations will be determined as follows:

- (1) Opacity limit violations:
 - (a) Major— opacity measurements or readings of 20 percent opacity or more over the applicable limit; or an opacity violation by a federal major source as defined in title 12;
 - (b) Moderate— opacity measurements or readings of greater than 10 percent opacity and less than 20 percent opacity over the applicable limit;
 - (c) Minor— opacity measurements or readings of 10 percent opacity or less opacity over the applicable limit.
- (2) Operating a major source, as defined in title 12, without first obtaining the required permit: Major – if a Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT) analysis shows that additional controls or offsets are or were needed, otherwise apply section 15-057.
- (3) Exceeding an emission limit established ~~pursuant to~~ under New Source Review/Prevention of Significant Deterioration (NSR/PSD): Major – if exceeded the emission limit by more than 50 percent of the limit, otherwise apply section 15-057.
- ~~(4)~~ (4)—Exceeding an emission limit established ~~pursuant to~~ under federal National Emission Standards for Hazardous Air Pollutants (NESHAPs): Major – if exceeded the Maximum Achievable Control Technology (MACT) standard emission limit for a directly-measured hazardous air pollutant (HAP), otherwise apply section 15-057.
- ~~(5)~~ Exceeding a cancer or noncancer risk limit that is equivalent to a Risk Action Level or a Source Risk Limit if the limit is a Risk Action Level established under OAR 340-245-0005 through 340-245-8050: Major, otherwise apply section 15-057.
- ~~(5)~~ (6) Air contaminant emission limit violations for selected air pollutants: Magnitude determinations under this subsection shall be made based upon significant emission rate (SER) amounts listed in title 12 (Tables 2 and 3):
 - (a) Major:
 - (A) Exceeding the annual emission limit as established by permit, rule or order, by more than the annual SER; or
 - (B) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by more than the applicable short-term SER.

(b) Moderate:

- (A) Exceeding the annual emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the annual SER; or
- (B) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the applicable short-term SER.

(c) Minor:

- (A) Exceeding the annual emission limit as established by permit, rule or order by an amount less than 50 percent of the annual SER; or
- (B) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by an amount less than 50 percent of the applicable short-term SER.

(67) Violation of Emergency Action Plans: Major magnitude in all cases.

(78) Asbestos violations--These selected magnitudes apply unless the violation does not cause the potential for human exposure to asbestos fibers:

- (a) Major – more than 260 linear feet or more than 160 square feet asbestos-containing material or asbestos-containing waste material;
- (b) Moderate – from 40 linear feet up to and including 260 linear feet or from 80 square feet up to and including 160 square feet asbestos-containing material or asbestos-containing waste material;
- (c) Minor – less than 40 linear feet or 80 square feet of asbestos-containing material or asbestos-containing waste material;
- (d) The magnitude of the asbestos violation may be increased by one level if the material was comprised of more than 5 percent asbestos.

(89) Outdoor burning violations:

- (a) Major – Initiating or allowing the initiation of outdoor burning of 20 or more cubic yards of commercial, construction, demolition and/or industrial waste; or 5 or more cubic yards of prohibited materials (inclusive of tires); or 10 or more tires;
- (b) Moderate – Initiating or allowing the initiation of outdoor burning of 10 or more, but less than 20 cubic yards of commercial, construction, demolition and/or industrial waste; or 2 or more, but less than 5 cubic yards of prohibited materials (inclusive of tires); or 3 to 9 tires; or if LRAPA lacks sufficient information upon which to make a determination of the type of waste, number of cubic yards or number of tires burned;

- (c) Minor – Initiating or allowing the initiation of outdoor burning—of- less than 10 cubic yards of commercial, construction, demolition and/or industrial waste; or less than 2 cubic yards of prohibited materials (inclusive of tires); or 2 or less tires;
- (d) The selected magnitude may be increased one level if LRAPA finds that one or more of the following are true or decreased one level if LRAPA finds that none of the following are true:
 - (A) The burning took place in an outdoor burning control area;
 - (B) The burning took place in an area where outdoor burning is prohibited;
 - (C) The burning took place in a non-attainment or maintenance area for PM₁₀ or PM_{2.5}; or
 - (D) The burning took place on a day when all outdoor burning was prohibited due to meteorological conditions.

Section 15-065 Appeals

- (1) Any person who is issued a corrective action order or who is assessed with a civil penalty under title 15 may appeal such order or penalty to LRAPA within 21 days of the date of mailing of the notice. The hearing and appeal shall be conducted according to title 14 of these rules.
- (2) In reviewing the order or the penalty assessed by the Director, the Hearings Officer shall consider the factors set forth in section 15-030, the findings of the Director and the evidence and argument presented at the hearing. The Hearings Officer shall make findings as to those factors deemed to be significant.
- (3) Unless the issue is raised in Respondent's answer to the order or notice of assessment of civil penalty, the Hearings Officer may presume that the economic and financial conditions of Respondent would allow imposition of the penalty assessed by the Director. At the hearing, the burden of proof and the burden of coming forward with evidence regarding the Respondent's economic and financial condition shall be upon the Respondent.
- (4) If a timely request for a hearing is not received by LRAPA, the Director may issue a final order upon default based upon a prima facie case as provided in paragraph 14-175(4)(c) and subsection 14-205(2). If the penalty is not paid within 10 days of issuance of the final order, the order shall constitute a judgment and may be filed as provided in ORS 468.135(4).

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 31

PUBLIC PARTICIPATION

Section 31-0010 Purpose

The purpose of this title is to specify the requirements for notifying the public of certain permit actions and providing an opportunity for the public to participate in those permit actions.

Section 31-0020 Applicability

This title applies to permit actions requiring public notice as specified in OAR 340 division 218, [245](#), and LRAPA title 37.

Section 31-0030 Public Notice Categories and Timing

- (1) LRAPA categorizes permit actions according to potential environmental and public health significance and the degree to which LRAPA has discretion for implementing the applicable regulations. Category I is for permit actions with low environmental and public health significance so they have less public notice and opportunity for public participation. Category IV is for permit actions with potentially high environmental and public health significance so they have the greatest level of public notice and opportunity for participation.
- (2) Permit actions are assigned to specific categories in OAR 340, division 218, [245](#) and LRAPA title 37. If a permit action is uncategorized, the permit action will be processed under Category III.
- (3) The following describes the public notice or participation requirements for each category:
 - (a) Category I -- No prior public notice or opportunity for participation. However, LRAPA will maintain a list of all permit actions processed under Category I and make the list available for public review.
 - (b) Category II -- LRAPA will provide public notice of the proposed permit action and a minimum of 30 days to submit written comments.
 - (c) Category III -- LRAPA will provide public notice of the proposed permit action and a minimum of 35 days to submit written comments. LRAPA will provide a minimum of 30 days notice for a hearing, if one is scheduled. LRAPA will schedule a hearing at a reasonable time and place to allow interested persons to submit oral or written comments if:
 - (A) LRAPA determines that a hearing is necessary; or

- (B) Within 35 days of the mailing of the public notice, LRAPA receives written requests from ten persons, or from an organization representing at least ten persons, for a hearing.
- (d) Category IV -- Once an application is considered complete under 37-0040, LRAPA will:
 - (A) Provide notice of the completed application and requested permit action; and
 - (B) Schedule an informational meeting within the community where the facility will be or is located and provide public notice at least 14 days before the meeting. During the meeting, LRAPA will describe the requested permit action and accept comments from the public. LRAPA will consider any information gathered in this process in its drafting of the proposed permit, but will not maintain an official record of the meeting and will not provide a written response to the comments;
 - (C) Once a draft permit is completed, provide public notice of the proposed permit and a minimum of 40 days to submit written comments; and
 - (D) Schedule a public hearing at a reasonable time and place to allow interested persons to submit oral or written comments and provide a minimum of 30 days public notice for the hearing.
- (4) Except for actions regarding LRAPA Title V Operating Permits, LRAPA may move a permit action to a higher category under subsection (3) based on, but not limited to the following factors:
 - (a) Anticipated public interest in the facility;
 - (b) Compliance and enforcement history of the facility or owner;
 - (c) Potential for significant environmental or public harm due to location or type of facility; or
 - (d) Federal requirements.

Section 31-0040 Public Notice Information

- (1) The following information is required in public notices or included in a web link from the public notice for all proposed ACDP ~~and~~ draft LRAPA Title V Operating Permit actions, and Toxic Air Contaminant Permit Addenda(s) issued under division 245, except for General Permit actions:
 - (a) Name of applicant and location of the facility;

- (b) Type of facility, including a description of the facility's processes subject to the permit;
- (c) Description of the air contaminant emissions including, the type of regulated pollutants, quantity of emissions, and any decreases or increases since the last permit action for the facility;
- (d) Location and description of documents relied upon in preparing the draft permit;
- (e) Other permits required by LRAPA;
- (f) Date of previous permit actions;
- (g) Opportunity for public comment and a brief description of the comment procedures, whether in writing or in person, including the procedures for requesting a hearing (unless a hearing has already been scheduled or is not an option for the Public Notice category);
- (h) Compliance, enforcement, and complaint history along with resolution of the same;
- (i) A summary of the discretionary decisions made by LRAPA in drafting the permit;
- (j) Type and duration of the proposed or draft permit action;
- (k) Basis of need for the proposed or draft permit action;
- (l) Any special conditions imposed in the proposed or draft permit action;
- (m) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment/unclassified, sustainment, non-attainment, reattainment or maintenance for that pollutant;
- (n) If the proposed permit action is for a federal major source, whether the proposed permitted emission would have a significant impact on a Class I airshed;
- (o) If the proposed permit action is for a major source for which dispersion modeling has been performed, an indication of what impact each proposed permitted emission would have on the ambient air quality standard and PSD increment consumption within an attainment area;
- (p) Other available information relevant to the permitting action;
- (q) The name and address of LRAPA office processing the permit;
- (r) The name, address, and telephone number and e-mail address of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report,

except for information that is exempt from disclosure, and all other materials available to LRAPA that are relevant to the permit decision; ~~and~~

(s) If applicable, a statement that an enhanced NSR process, under LRAPA title 38, including the external review procedures required under OAR 340-218-0210 and 340-218-0230, is being used to allow for subsequent incorporation of the operating approval into an LRAPA Title V Operating Permit as an administrative amendment-; and

(s)(t) For Toxic Air Contaminant Permit Addenda and ACDPs that include conditions consistent with OAR 340, division 245, a list of estimated toxic air contaminant emissions and, if applicable, a summary of the results of any risk assessment.

(2) General Permit Actions. The following information is required for General ACDP and General LRAPA Title V Operating Permit actions:

- (a) The name and address of potential or actual facilities assigned to the General Permit;
- (b) Type of facility, including a description of the facility's process subject to the permit;
- (c) Description of the air contaminant emissions including, the type of pollutants, quantity of emissions, and any decreases or increases since the last permit action for the potential or actual facilities assigned to the permit;
- (d) Location and description of documents relied upon in preparing the draft permit;
- (e) Other permits required by LRAPA;
- (f) Date of previous permit actions;
- (g) Opportunity for public comment and a brief description of the comment procedures, whether in writing or in person, including the procedures for requesting a hearing (unless a hearing has already been scheduled or is not an option for the Public Notice category)
- (h) Compliance, enforcement, and complaint history along with resolution of the same;
- (i) A summary of the discretionary decisions made by LRAPA in drafting the permit;
- (j) Type and duration of the proposed or draft permit action;
- (k) Basis of need for the proposed or draft permit action;
- (l) Any special conditions imposed in the proposed or draft permit action;

- (m) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the sources are located are designated as attainment or nonattainment for that pollutant;
- (n) If the proposed permit action is for a federal major source, whether the proposed permitted emission would have a significant impact on a Class I airshed;
- (o) Other available information relevant to the permitting action; and
- (p) The name, address, and telephone number and e-mail address of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report, except for information that is exempt from disclosure, and all other materials available to LRAPA that are relevant to the permit decision.

Section 31-0050 Public Notice Procedures

- (1) All notices. LRAPA will mail or e-mail a notice of proposed permit actions to the persons identified in 31-0060.
- (2) NSR, LRAPA Title V Operating Permit and General ACDP actions. In addition to subsection (1), LRAPA will provide notice of NSR, LRAPA Title V Operating Permit and General ACDP actions as follows:
 - (a) On the LRAPA website and/or will be located, electronic noticing (termed e-notice), or LRAPA publication designed to give general public notice; and
 - (b) Other means, if necessary, to assure adequate notice to the affected public.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 37

AIR CONTAMINANT DISCHARGE PERMITS

Section 37-0010 Purpose

This title prescribes the requirements and procedures for obtaining Air Contaminant Discharge Permits (ACDPs) ~~pursuant to~~ under ORS 468A.040 through 468A.060 and related statutes for sources of air contaminants.

Section 37-0020 Applicability and Jurisdiction

- (1) This title applies to all sources referred to in 37-8010 Table 1. This title also applies to Oregon Title V Operating Permit program sources when an ACDP is required by OAR 340-218-0020 or 38-0010. Sources referred to in 37-8010 Table 1 are subject to fees set forth in 37-8020 Table 2.
- (2) Sources in any one of the categories in 37-8010 Table 1 (Table 1) must obtain a permit. If a source meets the requirements of more than one of the source categories and the source is not eligible for a Basic ACDP or a General ACDP that has been authorized by LRAPA, then the source must obtain a Simple or Standard ACDP. Source categories are not listed in alphabetical order.
 - (a) The commercial and industrial sources in Table 1, Part A must obtain a Basic ACDP under 37-0056 unless the source chooses to obtain a General, Simple or Standard ACDP. For purposes of 37-8010 Table 1, Part A, production and emission parameters are based on the latest consecutive 12 month period, or future projected operation, whichever is higher. Emission cutoffs are based on actual emissions.
 - (b) Sources in any one of the categories in Table 1, Part B must obtain one of the following unless otherwise allowed in Table 1, Part B:
 - (A) A General ACDP, if one is available for the source classification and the source qualifies for a General ACDP under 37-0060;
 - (B) A Simple ACDP under 37-0064; or
 - (C) A Standard ACDP under 37-0066 if the source fits one of the criteria of Table 1, Part C or does not qualify for a Simple ACDP.

- (c) Sources in any one of the categories in Table 1, Part C must obtain a Standard ACDP under the procedures set forth in 37-0066.
- (3) No person may construct, install, establish, develop or operate any air contaminant source which is listed in 37-8010 Table 1 without first obtaining an Air Contaminant Discharge Permit (ACDP) from DEQ or LRAPA and keeping a copy onsite at all times, unless otherwise deferred from the requirement to obtain an ACDP in paragraph (3)(b) or LRAPA has granted an exemption from the requirement to obtain an ACDP under paragraph (3)(e). No person may continue to operate an air contaminant source if the ACDP expires, or is terminated, denied, or revoked; except as provided in 37-0082.
- (a) For portable sources, a single permit may be issued for operating at any area of the state if the permit includes the requirements from both DEQ and LRAPA. DEQ or LRAPA, depending where the portable source's corporate offices are located, will be responsible for issuing the permit. If the corporate office of a portable source is located outside of the state, DEQ will be responsible for issuing the permit, unless the source applies initially to be permitted to operate only in Lane County, then LRAPA will be responsible for issuing the permit.
- (b) An air contaminant source required to obtain an ACDP or ACDP Attachment ~~pursuant to~~ under a NESHAP under title 44 or NSPS under title 46 is not required to submit an application for an ACDP or ACDP Attachment until four months after the effective date of the LRAPA Board's adoption of the NESHAP or NSPS, and is not required to obtain an ACDP or ACDP Attachment until six months after the LRAPA Board's adoption of the NESHAP or NSPS. In addition, LRAPA may defer the requirement to submit an application for, or to obtain an ACDP or ACDP Attachment, or both, for up to an additional twelve months.
- (c) Deferrals of LRAPA and/or DEQ permitting requirements do not relieve an air contaminant source from the responsibility of complying with the federal NESHAP or NSPS requirements.
- (d) 37-0060(1)(b)(A), 37-0062(2)(b)(A), 37-0064(4)(a), and 37-0066(3)(a), do not relieve a permittee from the responsibility of complying with federal NESHAP or NSPS requirements that apply to the source even if LRAPA has not incorporated such requirements into the permit.
- (e) LRAPA may exempt a source from the requirement to obtain an ACDP if it determines that the source is subject to only procedural requirements, such as notification that the source is affected by an NSPS or NESHAP.
- (4) No person may construct, install, establish, or develop any source that will be subject to the Oregon Title V Operating Permit program without first obtaining an ACDP from LRAPA.
- (5) No person may modify any source that has been issued an ACDP without first complying with the requirements of 34-010 and 34-035 through 34-038.

- (6) No person may modify any source required to have an ACDP such that the source becomes subject to the Oregon Title V Operating Permit program without complying with the requirements of 34-010 and 34-035 through 34-038.
- (7) No person may increase emissions above the PSEL by more than the de minimis levels specified in LRAPA title 12 without first applying for and obtaining a modified ACDP.

Section 37-0030 Definitions

The definitions in title 12, 29-0010, [OAR 340-245-0020](#) and this section apply to this title. If the same term is defined in this section and title 12, [or OAR 340-245-0020](#), the definition in this section applies to this title.

- (1) "Basic technical modification" includes, but is not limited to changing source test dates if the equipment is not being operated, and similar changes.
- (2) "Complex technical modification" includes, but is not limited to incorporating a complex new compliance method into a permit, adding a complex compliance method or monitoring for an emission point or control device not previously addressed in a permit, adding a complex new applicable requirement into a permit due to a change in process or change in rules, and similar changes.
- (3) "Moderate technical modification" includes, but is not limited to adding a simple compliance method or monitoring for an emission point or control device not previously addressed in a permit, revising monitoring and reporting requirements other than dates and frequency, adding a new applicable requirement into a permit due to a change in process or change in rules, incorporating NSPS and NESHAP requirements, and similar changes.
- (4) "Non-technical modification" means name changes, change of ownership, correction of typographical errors and similar administrative changes.
- (5) "Simple technical modification" includes, but is not limited to modifying a compliance method to use different emission factors or process parameters, changing reporting dates or frequency, and similar changes.

Section 37-0040 Application Requirements

- (1) New Permits.
 - (a) Except for Short Term Activity ACDPs, any person required to obtain a new ACDP must provide the following general information, as applicable, using forms provided by LRAPA in addition to any other information required for a specific permit type:
 - (A) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business, Standard Industrial Classification (SIC) code;

- (B) The name and phone number of a local person responsible for compliance with the permit;
 - (C) The name of a person authorized to receive requests for data and information;
 - (D) A description of the production processes and related flow chart;
 - (E) A plot plan showing the location and height of air contaminant sources. The plot plan must also indicate the nearest residential or commercial property;
 - (F) The type and quantity of fuels used;
 - (G) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, or monthly and yearly rates, showing calculation procedures;
 - (H) Any information on pollution prevention measures and cross-media impacts the applicant wants LRAPA to consider in determining applicable control requirements and evaluating compliance methods;
 - (I) Estimated efficiency of air pollution control devices under present or anticipated operating conditions;
 - (J) Where the operation or maintenance of air pollution control devices and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for LRAPA to establish operational and maintenance requirements in accordance with 32-0120(1) and (2);
 - (K) A Land Use Compatibility Statement signed by a local, city, or county planner either approving or disapproving construction or modification of the source, if required by the local planning agency;
 - (L) Any information required by titles 38 and 40, [and OAR 340 division 245](#), including but not limited to control technology and analysis, air quality impact analysis; and information related to offsets and net air quality benefit, if applicable; and
 - (M) Any other information requested by LRAPA.
- (b) Applications for new permits must be submitted at least 60 days prior to when a permit is needed. When preparing an application, the applicant ~~should~~**must** also consider the timelines provided in paragraph (2)(b), as well as [OAR 340-245-0030, Cleaner Air Oregon submittal and payment deadlines](#), and [38-0030](#), permit applications subject to NSR, to allow LRAPA adequate time to process the application and issue a permit before it is needed.

- (2) Renewal Permits. Except for Short Term Activity ACDPs, any person required to renew an existing permit must submit the information identified in subsection (1) using forms provided by LRAPA, unless there are no significant changes to the permit. If there are significant changes, the applicant must provide the information identified in subsection (1) only for those changes.
 - (a) Where there are no significant changes to the permit, the applicant may use a streamlined permit renewal application process by providing the following information:
 - (A) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business, Standard Industrial Classification (SIC) code, using a form provided by LRAPA; and
 - (B) A marked up copy of the previous permit indicating minor changes along with an explanation for each requested change.
 - (b) The owner or operator must submit an application for renewal of the existing permit by no later than:
 - (A) 30 days prior to the expiration date of a Basic ACDP;
 - (B) 120 days prior to the expiration date of a Simple ACDP; or
 - (C) 180 days prior to the expiration date of a Standard ACDP.
 - (c) LRAPA must receive an application for reassignment to General ACDPs and attachments within 30 days prior to expiration of the General ACDPs or attachment.
- (3) Permit Modifications. For Simple and Standard ACDP modifications, the applicant must provide the information in subsection (1) relevant to the requested changes to the permit and a list of any new requirements applicable to those changes. When preparing an application, the applicant ~~should~~must also consider the timelines provided in paragraph (2)(b), as well as 38-0030, permit applications subject to NSR, to allow LRAPA adequate time to process the application and issue a permit before it is needed.
- (4) Any owner or operator who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.
- (5) The application must be completed in full and signed by the applicant or the applicant's legally authorized representative.
- (6) Two copies of the application are required, unless otherwise requested by LRAPA. At least one of the copies must be a paper copy, but the others may be in any other format, including electronic copies, upon approval by LRAPA.

- (7) A copy of permit applications subject to Major NSR under title 38, including all supplemental and supporting information, must also be submitted directly to the EPA.
- (8) The name of the applicant must be the legal name of the facility or the owner's agent or the lessee responsible for the operation and maintenance of the facility. The legal name must be registered with the Secretary of State Corporations Division.
- (9) Once an application is deemed complete by LRAPA, all applications must submit the appropriate fees invoiced by LRAPA as specified in Table 2 of 37-8020.
- (10) Applications that are obviously incomplete, unsigned, improperly signed, or lacking the required exhibits or fees will be rejected by LRAPA and returned to the applicant for completion.
- (11) Within 15 days after receiving the application, LRAPA will preliminarily review the application to determine the adequacy of the information submitted:
 - (a) If LRAPA determines that additional information is needed, LRAPA will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request;
 - (b) If, in the opinion of LRAPA, additional measures are necessary to gather facts regarding the application, LRAPA will notify the applicant that such measures will be instituted along with the timetable and procedures to be followed. The application will not be considered complete for processing until the necessary additional fact-finding measures are completed. When the information in the application is deemed adequate for processing, LRAPA will so notify the applicant.
- (12) If at any time while processing the application, LRAPA determines that additional information is needed, LRAPA will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request.
- (13) If, upon review of an application, LRAPA determines that a permit is not required, LRAPA will so notify the applicant in writing. Such notification is a final action by LRAPA on the application.

Section 37-0069 Toxic Air Contaminant Permit Addendums

- (1) Purpose and intent. LRAPA may implement requirements pertaining to toxic air contaminants under OAR 340 division 245 as follows:

- (a) For new sources required to obtain a Standard or Simple ACDP, by including conditions in the source's ACDP to ensure compliance with the Cleaner Air Oregon rules, OAR chapter 340, division 245;
 - (b) For new sources required to obtain a Basic or General ACDP, by including conditions in an addendum to the source's ACDP to ensure compliance with the Cleaner Air Oregon rules, OAR chapter 340, division 245; and
 - (c) For existing sources, by requiring the owner or operator of the sources to obtain a Toxic Air Contaminant Permit Addendum under OAR chapter 340, division 245 that amends the source's ACDP.
- (2) A Toxic Air Contaminant Permit Addendum will be incorporated into a source's ACDP upon renewal or modification that involves a public notice for which LRAPA has followed the Category II or Category III public notice procedure in title 31, except for sources that have Basic or General ACDPs.
- (3) Section 37-0062 and 37-0068 do not apply to Toxic Air Contaminant Permit Addenda.

Section 37-0090 Sources Subject to ACDPs and Fees

- (1) All air contaminant discharge sources listed in Table 1 37-8010 must obtain a permit from LRAPA and are subject to fees as set forth in Table 2 37-8020.
- (2) An owner or operator of a source that is required to demonstrate compliance with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050 must pay the fees specified in Table 3, Section 37-8030.
- (43) The fees in Table 2, Section 37-8020, Parts 1, 2 and 4 will increase by four (4) percent on July 1 of each year.

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TABLE 2 - SECTION 37-8020

AIR CONTAMINANT DISCHARGE PERMIT

Part 1. Initial Permitting Application Fees: (in addition to first annual fee)

a. Short Term Activity ACDP	\$3,979
b. Basic ACDP	\$159
c. Assignment to General ACDP*	\$1,591
d. Simple ACDP	\$7,958
e. Construction ACDP	\$12,733
f. Standard ACDP	\$15,915
g. Standard ACDP (Major NSR or Type A State NSR)	\$55,702

*LRAPA may waive the assignment fee for an existing source requesting to be assigned to a General ACDP because the source is subject to a newly adopted area source NESHAP as long as the existing source requests assignment within 90 days of notification by LRAPA.

Part 2. Annual Fees: (Due date 12/1* for 1/1 to 12/31 of the following year)

a. Short Term Activity ACDP	\$ NA
b. Basic ACDP	\$ 478
c. General ACDP	
(A) Fee Class One	\$955
(B) Fee Class Two	\$1,720
(C) Fee Class Three	\$2,484
(D) Fee Class Four	\$478
(E) Fee Class Five	\$159
(F) Fee Class Six	\$324
(G) Attachment	\$159
d. Simple ACDP	
(A) Low Fee	\$2,546
(B) High Fee	\$5,093
e. Standard ACDP	\$10,186

f. Greenhouse Gas reporting, as required by OAR 340, Division 215	12.5% of the applicable annual fee in Part 2
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* LRAPA may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.

Part 3. Cleaner Air Oregon Annual Fees: (Due date 12/1 for 1/1 to 12/31 of the following year)

a. Basic ACDP	\$ 151
b. General ACDP	
(A) Fee Class One	\$302
(B) Fee Class Two	\$544
(C) Fee Class Three	\$786
(D) Fee Class Four	\$151
(E) Fee Class Five	\$50
(F) Fee Class Six	\$100
d. Simple ACDP	
(A) Low Fee	\$806
(B) High Fee	\$1,612
e. Standard ACDP	\$3,225

* LRAPA may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.

Part 4. Specific Activity Fees:

a. Non-Technical Permit Modification	\$159
b. Non-PSD/NSR Basic Technical Permit Modification	\$478
c. Non-PSD/NSR Simple Technical Permit Modification	\$1,591
d. Non-PSD/NSR Moderate Technical Permit Modification	\$7,958
e. Non-PSD/NSR Complex Technical Permit Modification	\$15,915
f. Major NSR or Type A State NSR Permit Modification	\$55,702
g. Modeling Review (outside Major NSR or Type A State NSR)	\$7,958
h. Public Hearing at Source's Request	\$3,183
i. LRAPA MACT Determination	\$7,958
j. Compliance Order Monitoring ¹	\$159/month
1. This is a one-time fee payable when a compliance order is established in a permit or an LRAPA order containing a compliance schedule becomes a final order of LRAPA and is based on the number of months LRAPA will have to oversee the order.	

Part 45. Late Fees:

- a. 8-30 days late 5%
- b. 31-60 days late 10%
- c. 61 or more days late 20%

Part 56. Specific Registration Fees:

1. Gasoline Dispensing Facilities subject to area source NESHAPs not required to otherwise obtain an LRAPA permit must pay a one-time registration fee of \$41.
2. Motor vehicle surface coating operations registered pursuant to under 34-025 must pay \$275 per year.
3. Dry cleaners using perchloroethylene registered pursuant to under 34-025 must pay \$206 per year.

LANE REGIONAL AIR PROTECTION AGENCY

TABLE 3 - SECTION 37-8030

CLEANER AIR OREGON SPECIFIC ACTIVITY FEES

LRAPA sources subject to OAR Chapter 340 division 245, Cleaner Air Oregon, are required to pay the specific activity fees in Table 3.

#	ACTIVITY	Permit Type			
		Title V	Standard ACDP	Simple ACDP	General Basic ACDP
<u>1</u>	<u>Existing Source Call-In Fee</u>	<u>\$10,000</u>	<u>\$10,000</u>	<u>\$1,000</u>	<u>\$500</u>
<u>2</u>	<u>New Source Consulting Fee</u>	<u>\$12,000</u>	<u>\$12,000</u>	<u>\$1,900</u>	<u>\$1,000</u>
<u>3</u>	<u>Document Modification Fee</u>	<u>\$2,500</u>	<u>\$2,500</u>	<u>\$500</u>	<u>\$250</u>
<u>Risk Below Risk Action Levels</u>					
<u>4</u>	<u>Level 1 Risk Assessment - de minimis (no permit amendment required)</u>	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$1,000</u>	<u>\$800</u>
<u>5</u>	<u>Level 1 Risk Assessment - permit amendment required</u>	<u>\$2,000</u>	<u>\$2,000</u>	<u>\$1,500</u>	<u>\$1,100</u>
<u>6</u>	<u>Level 2 Risk Assessment - de minimis (no permit amendment required)</u>	<u>\$3,100</u>	<u>\$3,100</u>	<u>\$2,300</u>	<u>\$2,000</u>
<u>7</u>	<u>Level 2 Risk Assessment - permit amendment required</u>	<u>\$3,600</u>	<u>\$3,600</u>	<u>\$2,800</u>	<u>\$2,300</u>
<u>8</u>	<u>Level 3 Risk Assessment - de minimis (no permit amendment required)</u>	<u>\$8,800</u>	<u>\$8,200</u>	<u>\$5,300</u>	<u>\$4,500</u>
<u>9</u>	<u>Level 3 Risk Assessment - permit amendment required</u>	<u>\$19,900</u>	<u>\$11,300</u>	<u>\$7,700</u>	<u>\$6,300</u>
<u>10</u>	<u>Level 4 Risk Assessment - de minimis (no permit amendment required)</u>	<u>\$21,400</u>	<u>\$18,500</u>	<u>\$11,700</u>	<u>NA</u>
<u>11</u>	<u>Level 4 Risk Assessment - permit amendment required</u>	<u>\$34,600</u>	<u>\$25,800</u>	<u>\$15,500</u>	<u>NA</u>
<u>Risk Above Risk Action Levels</u>					
<u>12</u>	<u>Risk Reduction Plan Fee</u>	<u>\$6,700</u>	<u>\$6,700</u>	<u>\$2,600</u>	<u>\$2,600</u>
<u>13</u>	<u>Cleaner Air Oregon Monitoring Plan Fee (includes risk assessment)</u>	<u>\$25,900</u>	<u>\$25,900</u>	<u>NA</u>	<u>NA</u>
<u>14</u>	<u>Postponement of Risk Reduction Fee</u>	<u>\$4,400</u>	<u>\$4,400</u>	<u>\$4,400</u>	<u>\$2,000</u>

<u>15</u>	<u>TBACT/TLAER Review (per Toxic Emissions Unit)</u>	<u>\$3,000</u>	<u>\$3,000</u>	<u>\$1,500</u>	<u>\$1,500</u>
	<u>Other Fees</u>				
<u>16</u>	<u>TEU Risk Assessment – no permit amendment mod</u>	<u>\$1,000</u>	<u>\$1,000</u>	<u>\$500</u>	<u>\$500</u>
<u>17</u>	<u>TEU Risk Assessment – permit amendment mod</u>	<u>\$4,000</u>	<u>\$4,000</u>	<u>\$2,000</u>	<u>\$1,000</u>
<u>18</u>	<u>Level 2 Modeling review only for TEU approval</u>	<u>\$1,900</u>	<u>\$1,300</u>	<u>\$800</u>	<u>\$700</u>
<u>19</u>	<u>Level 3 Modeling review only for TEU approval</u>	<u>\$3,800</u>	<u>\$3,800</u>	<u>\$3,500</u>	<u>\$3,500</u>
<u>20</u>	<u>Community Engagement Meeting Fee</u>	<u>\$8,000</u>	<u>\$8,000</u>	<u>\$8,000</u>	<u>\$8,000</u>
<u>21</u>	<u>Source Test Review Fee (plan and data review) - complex</u>	<u>\$6,000</u>	<u>\$6,000</u>	<u>\$6,000</u>	<u>\$6,000</u>
<u>22</u>	<u>Source Test Review Fee (plan and data review) – moderate</u>	<u>\$4,200</u>	<u>\$4,200</u>	<u>\$4,200</u>	<u>\$4,200</u>
<u>23</u>	<u>Source Test Review Fee (plan and data review) - simple</u>	<u>\$1,400</u>	<u>\$1,400</u>	<u>\$1,400</u>	<u>\$1,400</u>

Draft rules – Edits shown

The edits shown below are part of the Oregon Clean Air Act State Implementation Plan except for text shaded in gray.

Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 12

GENERAL PROVISIONS AND DEFINITIONS

Section 12-001 General

- (1) Description: The general provisions and definitions included in this title shall apply to all other LRAPA rules and regulations. Definitions that are included in any other LRAPA title are specific to that title and shall not apply to any other titles, rules or regulations.
- (2) Violations Not Authorized: Nothing in LRAPA rules or regulations is intended to permit any practice intended or designed to evade or circumvent LRAPA rules or regulations.
- (3) Severability: If a court of competent jurisdiction adjudges any LRAPA rule or regulation to be invalid such judgment shall be limited to that rule, regulation or portion thereof, and not otherwise effect, or invalidate the remainder of LRAPA rules and regulations.
- (4) LRAPA administers the air pollution control regulations listed in titles 12 through 51 in all areas of Lane County.

Section 12-005 Definitions

- "Act" or "FCAA" means the Federal Clean Air Act 42 U.S.C.A. §7401 to 7671q.
- "Activity" means any process, operation, action or reaction (e.g., chemical) at a source that emits a regulated pollutant.
- "Actual Emissions" means the mass emissions of a regulated pollutant from an emissions source during a specified time period as set forth in titles 34 and 42.
- "Adjacent" as used in the definitions of "major source" and "source" in 37-0070, means interdependent facilities that are nearby each other.

- "Affected Source," for the purposes of Title IV of the FCAA (Acid Rain) means a source that includes one or more affected units that are subject to emission reduction requirements or limitation.
- "Affected states," means all states:
 - A. Whose air quality may be affected by a proposed permit, permit modification, or permit renewal and that are contiguous to Oregon; or
 - B. That are within 50 miles of the permitted source.
- "Agency" means Lane Regional Air Protection Agency
- "Aggregate Insignificant Emissions" means the annual actual emissions of any regulated air pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities must be less than or equal to the lowest applicable level specified:
 - A. One (1) ton for each criteria pollutant (except lead), total reduced sulfur, hydrogen sulfide, sulfuric acid mist, any Class I or Class II substance subject to a standard promulgated under or established by Title VI of the FCAA;
 - B. 500 pounds for PM₁₀ in a PM₁₀ nonattainment area;
 - C. 500 pounds for PM_{2.5} in a PM_{2.5} nonattainment area;
 - D. 120 pounds for lead;
 - E. 600 pounds for fluorides;
 - F. the lesser of the amount established in 40 CFR 68.130, or 1,000 pounds;
 - G. an aggregate of 5,000 pounds for all hazardous air pollutants;
 - H. 2,756 tons CO₂e (short tons) of greenhouse gases.
- "Agricultural operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the raising and sale of livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose. It does not include the construction and use of dwellings customarily provided in conjunction with the agricultural operation.
- "Air contaminant" or "Air pollutant" means material which, when emitted, causes or tends to cause the degradation of air quality. Such material includes but is not limited to particulate matter, dust, fume, aerosol, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid, any regulated pollutant or any combination thereof. Such term includes any precursors to the

formation of any air pollutant; to the extent the EPA has identified such precursor or precursors for the particular purpose for which the term air pollutant is used.

- "Air Contaminant Discharge Permit" or "ACDP" means a written authorization issued, renewed, amended, or revised by LRAPA, ~~pursuant to~~under Title 37, Air Contaminant Discharge Permits.
- "Alternative Method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to LRAPA's satisfaction to, in specific cases, produce results adequate for determination of compliance. The alternative method must comply with the intent of the rules, is at least equivalent in objectivity and reliability to the uniform recognized procedures, and is demonstrated to be reproducible, selective, sensitive, accurate, and applicable to the program. An alternative method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to LRAPA.
- "Ambient air" means the portion of the atmosphere, external to buildings, to which the general public has access.
- "Applicable requirement" means all of the following as they apply to emissions units in an Oregon Title V Operating Permit program source or ACDP program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:
 - A. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rulemaking under Title I of the FCAA that implements the relevant requirements of the FCAA, including any revisions to that plan promulgated in 40 CFR part 52;
 - B. Any standard or other requirement adopted under LRAPA's State Implementation Plan, that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;
 - C. Any term or condition in an ACDP, LRAPA Title 37, Air Contaminant Discharge Permits, including any term or condition of any preconstruction permits issued ~~pursuant to~~under LRAPA Title 38, New Source Review, until or unless LRAPA revokes or modifies the term or condition by a permit modification;
 - D. Any term or condition in a Notice of Construction and Approval of Plans, Title 34 Stationary Source Notification Requirements until or unless LRAPA revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;
 - E. Any term or condition in a Notice of Approval, OAR 340-218-0190, issued before July 1, 2001, until or unless LRAPA revokes or modifies the term or condition by a Notice of Approval or a permit modification;

- F. Any term or condition of a PSD permit issued by the EPA until or unless the EPA revokes or modifies the term or condition by a permit modification;
 - G. Any standard or other requirement under section 111 of the FCAA (NSPS), including section 111(d);
 - H. Any standard or other requirement under section 112 of the FCAA (HAPs), including any requirement concerning accident prevention under section 112(r)(7) of the FCAA (Accidental Release Prevention);
 - I. Any standard or other requirement of the acid rain program under Title IV of the FCAA or the regulations promulgated thereunder;
 - J. Any requirements established ~~pursuant to~~under section 504(b) (Title V permit monitoring and analysis requirements) or section 114(a)(3) of the FCAA (Federal Enforcement; compliance certification);
 - K. Any standard or other requirement under section 126(a)(1) and (c) (PSD) of the FCAA;
 - L. Any standard or other requirement governing solid waste incineration, under section 129 of the FCAA (Solid Waste Combustion);
 - M. Any standard or other requirement for consumer and commercial products, under section 183(e) of the FCAA (Federal ozone measures);
 - N. Any standard or other requirement for tank vessels, under section 183(f) of the FCAA;
 - O. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the FCAA;
 - P. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the FCAA, unless the Administrator has determined that such requirements need not be contained in an Oregon Title V Operating Permit; and
 - Q. Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the FCAA, but only as it would apply to temporary sources permitted ~~pursuant to~~under section 504(e) of the FCAA.
- "Applicable State Implementation Plan" and "Plan" refer to the programs and rules of the Department or LRAPA, as approved by the EPA, or any EPA-promulgated regulations in 40 CFR part 52, subpart MM.
 - "ASTM" means the American Society for Testing Materials.
 - "Attainment area" or "unclassified area" means an area that has not otherwise been designated by EPA as nonattainment with ambient air quality standards for a particular regulated pollutant. Attainment areas or unclassified areas may also be referred to as sustainment or maintenance areas as designated in LRAPA title 29. Any particular location may be part of

an attainment area or unclassified area for one regulated pollutant while also being in a different type of designated area for another regulated pollutant.

- "Attainment pollutant" means a pollutant for which an area is designated an attainment or unclassified area.
- "Baseline emission rate" means the actual emission rate during a baseline period as determined under LRAPA title 42.
- "Baseline Period" means the period used to determine the baseline emission rate for each regulated pollutant under LRAPA title 42.
- "Best Available Control Technology" or "BACT" means an emissions limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of each air contaminant subject to regulation under the FCAA which would be emitted from any proposed major source or major modification which, on a case-by-case basis taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event may the application of BACT result in emissions of any air contaminant that would exceed the emissions allowed in any applicable new source performance standard or any standard for hazardous air pollutant. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard shall, to the degree possible, set forth the emission reduction achievable and shall provide for compliance by prescribing appropriate permit conditions.
- "Biomass" means non-fossilized and biodegradable organic material originating from plants, animals, and micro-organisms, including products, byproducts, residues and waste from agriculture, forestry, and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.
- "Board" means the Board of Directors of the Lane Regional Air Protection Agency
- "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.
- "Capture efficiency" means the amount of regulated pollutant collected and routed to an air pollution control device divided by the amount of total emissions generated by the process being controlled.
- "Capture system" means the equipment, including but not limited to hoods, ducts, fans, and booths used to contain, capture and transport a regulated pollutant to a control device.
- "Carbon dioxide equivalent" or "CO₂e" means an amount of greenhouse gas or gases expressed as the equivalent amount of carbon dioxide, and is computed by multiplying the

mass of each of the greenhouse gases by the global warming potential published for each gas at 40 CFR part 98, subpart A, Table A-1—Global Warming Potentials, and adding the resulting value for each greenhouse gas to compute the total equivalent amount of carbon dioxide.

- "Categorically Insignificant Activity" means any of the following listed regulated pollutant emitting activities principally supporting the source or the major industrial group. Categorically insignificant activities must comply with all applicable requirements.
 - A. Constituents of a chemical mixture present at less than 1 percent by weight of any chemical or compound regulated under OAR Chapter 340, divisions 218 and 220, and LRAPA titles 12 through 51 or less than 0.1 percent by weight of any carcinogen listed in the U. S. Department of Health and Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year.
 - B. Evaporative and tail pipe emissions from on-site motor vehicle operation;
 - C. Distillate oil, kerosene, and gasoline, natural gas or propane burning equipment, provided the aggregate expected actual emissions of the equipment identified as categorically insignificant do not exceed the de minimis level for any regulated pollutant, based on the expected maximum annual operation of the equipment. If a source's expected emissions from all such equipment exceed the de minimis levels, then the source may identify a subgroup of such equipment as categorically insignificant with the remainder not categorically insignificant. The following equipment may never be included as categorically insignificant:
 - (1) Any individual distillate oil, kerosene or gasoline burning equipment with a rating greater than 0.4 million Btu/hour;
 - (2) Any individual natural gas or propane burning equipment with a rating greater than 2.0 million Btu/hour;
 - D. Distillate oil, kerosene, gasoline, natural gas or propane burning equipment brought on site for six months or less for maintenance, construction or similar purposes, such as but not limited to generators, pumps, hot water pressure washers and space heaters, provided that any such equipment that performs the same function as the permanent equipment, must be operated within the source's existing PSEL;
 - E. Office activities;
 - F. Food service activities;
 - G. Janitorial activities;
 - H. Personal care activities;
 - I. Groundskeeping activities including, but not limited to building painting and road and parking lot maintenance;

- J. On-site laundry activities;
- K. On-site recreation facilities;
- L. Instrument calibration;
- M. Maintenance and repair shop;
- N. Automotive repair shops or storage garages;
- O. Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;
- P. Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI (Stratospheric Ozone Protection), including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;
- Q. Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;
- R. Temporary construction activities;
- S. Warehouse activities;
- T. Accidental fires;
- U. Air vents from air compressors;
- V. Air purification systems;
- W. Continuous emissions monitoring vent lines;
- X. Demineralized water tanks;
- Y. Pre-treatment of municipal water, including use of deionized water purification systems;
- Z. Electrical charging stations;
- AA. Fire brigade training;
- BB. Instrument air dryers and distribution;
- CC. Process raw water filtration systems;
- DD. Pharmaceutical packaging;
- EE. Fire suppression;
- FF. Blueprint making;

- GG. Routine maintenance, repair, and replacement such as anticipated activities most often associated with and performed during regularly scheduled equipment outages to maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;
- HH. Electric motors;
- II. Storage tanks, reservoirs, transfer and lubricating equipment used exclusively for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;
- JJ. On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;
- KK. Natural gas, propane, and liquefied petroleum gas (LPG) storage tanks and transfer equipment;
- LL. Pressurized tanks containing gaseous compounds;
- MM. Vacuum sheet stacker vents;
- NN. Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;
- OO. Log ponds;
- PP. Storm water settling basins;
- QQ. Fire suppression and training;
- RR. Paved roads and paved parking lots within an urban growth boundary;
- SS. Hazardous air pollutant emissions in fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;
- TT. Health, safety, and emergency response activities;
- UU. Emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency, provided that the aggregate horsepower rating of all stationary emergency generator and pump engines is not more than 3,000 horsepower. If the aggregate horsepower rating of all stationary emergency generator and pump engines is more than 3,000 horsepower, then no emergency generators and pumps at the source may be considered categorically insignificant;
- VV. Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;

- WW. Non-contact steam condensate flash tanks;
- XX. Non-contact steam vents on condensate receivers, deaerators and similar equipment;
- YY. Boiler blowdown tanks;
- ZZ. Industrial cooling towers that do not use chromium-based water treatment chemicals;
- AAA. Ash piles maintained in a wetted condition and associated handling systems and activities;
- BBB. Uncontrolled oil/water separators in effluent treatment systems, excluding systems with a throughput of more than 400,000 gallons per year of effluent located at the following sources:
- (1) Petroleum refineries;
 - (2) Sources that perform petroleum refining and re-refining of lubricating oils and greases including asphalt production by distillation and the reprocessing of oils and/or solvents for fuels; or
 - (3) Bulk gasoline plants, bulk gasoline terminals, and pipeline facilities;
- CCC. Combustion source flame safety purging on startup;
- DDD. Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;
- EEE. Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and
- FFF. White water storage tanks.
- "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies accuracy of the emission statement.
 - "CFR" means Code of Federal Regulations.
 - "Chair" means the chairperson of the Board of Directors of the Lane Regional Air Protection Agency.
 - "Class I Area" or "PSD Class I area" means any Federal, State, or Indian reservation land which is classified or reclassified as a Class I area under LRAPA title 29.
 - "Class II area" or "PSD Class II area" means any land which is classified or reclassified as a Class II area under LRAPA title 29.
 - "Class III area" or "PSD Class III area" means any land which is reclassified as a Class III area under LRAPA title 29.

- "Collection Efficiency" means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.
- "Commence" or "commencement" means, that the owner or operator has obtained all necessary preconstruction approvals required by the FCAA and either has: begun, or caused to begin a continuous program of actual on-site construction of the source to be completed in a reasonable time; or Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.
- "Commission" or "EQC" means the Oregon Environmental Quality Commission.
- "Constant process rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.
- "Construction":
 - A. Except as provided in subsection B. means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of a source or part of a source;
 - B. As used in LRAPA title 38 means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or in method of operation of a source which would result in a change in actual emissions.
- "Continuous compliance determination method" means a method, specified by the applicable standard or an applicable permit condition, which:
 - A. Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and
 - B. Provides data either in units of the standard or correlated directly with the compliance limit.
- "Continuous monitoring system" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emission rates or concentrations on a continuous basis as specified in the DEQ Continuous Monitoring Manual, and includes continuous emission monitoring systems, continuous opacity monitoring system (COMS) and continuous parameter monitoring systems.
- "Control device" means equipment, other than inherent process equipment, that is used to destroy or remove a regulated air pollutant prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to, fabric filters, mechanical collectors, electrostatic precipitators, inertial separators, afterburners, thermal or catalytic incinerators, adsorption devices(such as carbon beds), condensers, scrubbers(such as wet collection and gas absorption devices), selective catalytic

or non-catalytic reduction systems, flue gas recirculation systems, spray dryers, spray towers, mist eliminators, acid plants, sulfur recovery plants, injection systems (such as water, steam, ammonia, sorbent or limestone injection), and combustion devices independent of the particular process being conducted at an emissions unit (e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters). For purposes of 35-0200 through 35-0280, a control device does not include passive control measures that act to prevent regulated pollutants from forming, such as the use of seals, lids, or roofs to prevent the release of regulated pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular regulated pollutant-specific emissions unit, then that definition will be binding for purposes of 35-0200 through 35-0280.

- "Control efficiency" means the product of the capture and removal efficiencies.
- "Criteria pollutant" means any of the following regulated pollutants: nitrogen oxides, volatile organic compounds, particulate matter, PM₁₀, PM_{2.5}, sulfur dioxide, carbon monoxide, and lead.
- "Data" means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.
- "Day" means a 24-hour period beginning at 12:00 a.m. midnight or a 24-hour period specified in a permit.

- "De minimis emission level" means the level for the regulated pollutants listed below:

Pollutant	De minimis (tons/year, except as noted)
GHG (CO ₂ e)	2,756 (short tons)
CO	1
NO _x	1
SO ₂	1
VOC	1
PM	1
PM ₁₀	1
Direct PM _{2.5}	1
Lead	0.1
Fluorides	0.3
Sulfuric Acid Mist	0.7
Hydrogen Sulfide	1
Total Reduced Sulfur (including hydrogen sulfide)	1
Reduced Sulfur	1
Municipal waste combustor organics (Dioxin and furans)	0.0000005
Municipal waste combustor metals	1
Municipal waste combustor acid gases	1
Municipal solid waste landfill gases (measured as nonmethane organic compounds)	1
Single HAP	1
Combined HAP (aggregate)	1

- "Department" or "DEQ" means the Oregon Department of Environmental Quality.
- "DEQ method [#]" means the sampling method and protocols for measuring a regulated pollutant as described in the DEQ Source Sampling Manual.
- "Designated area" means an area that has been designated as an attainment, unclassified, sustainment, nonattainment, reattainment, or maintenance area under LRAPA title 29 or applicable provisions of the FCAA.
- "Destruction efficiency" means removal efficiency.
- "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.
- "Director" means the Director of the Lane Regional Air Protection Agency or the Director of the Oregon Department of Environmental Quality and authorized deputies or officers, depending on the context.
- "Direct PM_{2.5}" has the meaning provided in the definition of PM_{2.5}.

- "Distillate Fuel Oil" means any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils.
- "Draft permit" means the version of an LRAPA Title V Operating Permit for which LRAPA offers public participation under OAR 340-218-0210 or the EPA and affected State review under OAR 340-218-0230.
- "Dry standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions.
- "Effective date of the program" means the date that the EPA approves the Oregon Title V Operating Permit program submitted by DEQ on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.
- "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
- "Emission" means a release into the atmosphere of any regulated pollutant or air contaminant.
- "Emission estimate adjustment factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.
- "Emission factor" means an estimate of the rate at which a regulated pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate).
- "Emission limitation" or "Emission standard" or "Emission limitation or standard" means:
 - A. Except as provided in subsection B., a requirement established by a state, local government, or the EPA which limits the quantity, rate, or concentration of emissions of regulated air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.
 - B. As used in LRAPA 35-0200 through 35-0280, any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the FCAA. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions, e.g., pounds of SO₂ per hour, pounds of SO₂ per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO₂, or as the relationship of uncontrolled to controlled

emissions, e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO₂. An emission limitation or standard may also be expressed either as a work practice, process or control device parameter, or other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of LRAPA 35-0200 through 35-0280, an emission limitation or standard does not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, operate and maintain sources using good air pollution control practices, develop and maintain a malfunction abatement plan, keep records, submit reports, or conduct monitoring.

- "Emission reduction credit banking" means to presently reserve, subject to requirements of LRAPA ~~§~~ Title 41, Emission Reduction Credits, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.
- "Emission reporting form" means a paper or electronic form developed by LRAPA that shall be completed by the permittee to report calculated emissions, actual emissions, or permitted emissions for interim emission fee assessment purposes.
- "Emission unit" means any part or activity of a source that emits or has the potential to emit any regulated air pollutant.
 - A. A part of a stationary source is any machine, equipment, raw material, product, or by-product that produces or emits air pollutants. An activity is any process, operation, action, or reaction, e.g., chemical, at a stationary source that emit air regulated pollutants. Except as described in subsection D, parts and activities may be grouped for purposes of defining an emissions unit provided the following conditions are met:
 - (1) The group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply; and
 - (2) The emissions from the emissions unit are quantifiable.
 - B. Emissions units may be defined on a regulated pollutant-by-regulated-pollutant basis where applicable.
 - C. The term emissions unit is not meant to alter or affect the definition of the term unit for purposes of Title IV of the FCAA.
 - D. Parts and activities shall not be groups for purposes of determining emissions increases from an emissions unit under LRAPA titles 34 and 38, or for purposes of determining the applicability of a New Source Performance Standard (NSPS).
- "Enforcement" means any documented action taken to address a violation.
- "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

- "EPA Method 9" means the method for Visual Determination of the Opacity of Emissions from Stationary Sources as described in 40 CFR part 60, Appendix A-4.
- "Equivalent method" means any method of sampling and analyzing for a regulated pollutant that has been demonstrated to LRAPA's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to LRAPA.
- "Eugene/Springfield Air Quality Maintenance Area" means that area described in Section 4.6.2.1 and Figure 4.6.2.1--1 of the State of Oregon State Implementation Plan Revision, Eugene/Springfield AQMA, as approved by the Board on November 6, 1980.
- "Eugene-Springfield Urban Growth Boundary (ESUGB)" means the area within and around the cities of Eugene and Springfield, as described in the currently acknowledged Eugene-Springfield Metropolitan Area General Plan, as amended.
- "Event" means excess emissions that arise from the same condition and occur during a single calendar day or continue into subsequent calendar days.
- "Exceedance" means a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions, or opacity, are greater than the applicable emission limitation or standard, or less than the applicable standard in the case of a percent reduction requirement, consistent with any averaging period specified for averaging the results of the monitoring.
- "Excess emissions" means emissions in excess of a permit or permit attachment limit, in excess of a risk limit under OAR 340, division 245, or in violation of any applicable air quality rule.
- "Excursion" means a departure from an indicator range established for monitoring under 35-0200 through 35-0280 and OAR 340-218-0050(3)(a), consistent with any averaging period specified for averaging the results of the monitoring.
- "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.
- "Federal Major Source" means any source listed in subsections A or D below:
 - A. A source with potential to emit:
 - (1) 100 tons per year or more of any individual regulated pollutant, excluding greenhouse gases and hazardous air pollutants listed in LRAPA title 44 if in a source category listed in subsection C, or

(2) 250 tons per year or more of any individual regulated pollutant, excluding greenhouse gases and hazardous air pollutants listed in LRAPA title 44, if not in a source category listed in subsection C.

B. Calculations for determining a source's potential to emit for purposes of subsections A. and D. must include the following:

- (1) Fugitive emissions and insignificant activity emissions; and
- (2) Increases or decreases due to a new or modified source.

C. Source categories:

- (1) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;
- (2) Coal cleaning plants with thermal dryers;
- (3) Kraft pulp mills;
- (4) Portland cement plants;
- (5) Primary Zinc Smelters;
- (6) Iron and Steel Mill Plants;
- (7) Primary aluminum ore reduction plants;
- (8) Primary copper smelters;
- (9) Municipal Incinerators capable of charging more than 50 tons of refuse per day;
- (10) Hydrofluoric acid plants;
- (11) Sulfuric acid plants;
- (12) Nitric acid plants;
- (13) Petroleum Refineries;
- (14) Lime plants;
- (15) Phosphate rock processing plants;
- (16) Coke oven batteries;
- (17) Sulfur recovery plants;
- (18) Carbon black plants, furnace process;
- (19) Primary lead smelters;

- (20) Fuel conversion plants;
- (21) Sintering plants;
- (22) Secondary metal production plants;
- (23) Chemical process plants, excluding ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (24) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;
- (25) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (26) Taconite ore processing plants;
- (27) Glass fiber processing plants;
- (28) Charcoal production plants.

D. A major stationary source as defined in part D of Title I of the FCAA, including:

- (1) For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tons per year of nitrogen oxides do not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the FCAA, that requirements under section 182(f) of the FCAA do not apply;
 - (2) For ozone transport regions established ~~pursuant to~~ under section 184 of the FCAA, sources with the potential to emit 50 tons per year or more of VOCs;
 - (3) For carbon monoxide nonattainment areas that are classified as "serious" and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tons per year or more of carbon monoxide.
 - (4) For PM10 nonattainment areas classified as "serious," sources with the potential to emit 70 tons per year or more of PM10.
- "Filing" or "filed" means receipt in the office of the Director. Such receipt is adequate where filing is required for a document on a matter before LRAPA, except a claim of personal liability.

- "Final permit" means the version of an Oregon or LRAPA Title V Operating Permit issued by DEQ or LRAPA that has completed all review procedures required by OAR 340-218-0120 through 340-218-0240.
- "Form" means a paper or electronic form developed by DEQ or LRAPA.
- "Fuel burning equipment" means equipment, other than internal combustion engines, the principal purpose of which is to produce heat or power by indirect heat transfer.
- "Fugitive Emissions":
 - A. Except as used in subsection B., means emissions of any air contaminant which could escape to the atmosphere from any point or area that is not identifiable as a stack, chimney, vent, duct, or equivalent opening.
 - B. As used to define a major Oregon Title V Operating Permit program source, means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- "General permit":
 - A. Except as provided in subsection B. of this section, means an Air Contaminant Discharge Permit established under 37-0060.
 - B. As used in OAR 340 division 218 means an LRAPA or Oregon Title V Operating Permit established under OAR 340-218-0090.

- "Generic PSEL" means the levels for the regulated pollutants below:

Pollutant	Generic PSEL (tons/year, except as noted)
GHG (CO ₂ e)	74,000
CO	99
NO _x	39
SO ₂	39
VOC	39
PM	24
PM ₁₀	14
PM _{2.5}	9
Lead	0.5
Fluorides	2
Sulfuric Acid Mist	6
Hydrogen Sulfide	9
Total Reduced Sulfur (including hydrogen sulfide)	9
Reduced Sulfur	9
Municipal waste combustor organics (Dioxin and furans)	0.0000030
Municipal waste combustor metals	14
Municipal waste combustor acid gases	39
Municipal solid waste landfill gases (measured as nonmethane organic compounds)	49
Single HAP	9
Combined HAPs (aggregate)	24

- "Greenhouse gases", "GHGs", or "GHG" means the aggregate group of the following six gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride. Each gas is also individually a greenhouse gas. The definition of greenhouse gases in this section does not include, for purposes of LRAPA title 37, OAR 340 division 218, and LRAPA title 38, carbon dioxide emissions from the combustion or decomposition of biomass except to the extent required by federal law.
- "Growth allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.
- "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.
- "Hazardous Air Pollutant" or "HAP" means an air pollutant listed by the EPA pursuant to Section 112(b) of the FCAA or determined by the EQC or Board to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.

- "Immediately" means as soon as possible but in no case more than one hour after a source knew or should have known of an excess emission period.
- "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
- "Indian reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.
- "Inherent process equipment" means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of source testing requirements in 35-0200 through 35-0280, inherent process equipment is not considered a control device.
- "Insignificant activity" means an activity or emission that LRAPA has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.
- "Insignificant change" means an off-permit change defined under OAR 340-218-0140(2)(a) to either a significant or an insignificant activity which:
 - A. Does not result in a re-designation from an insignificant to a significant activity;
 - B. Does not invoke an applicable requirement not included in the permit; and
 - C. Does not result in emission of regulated pollutants not regulated by the source's permit.
- "Internal combustion engine" means stationary gas turbines and reciprocating internal combustion engines.
- "Late payment" means a fee payment which is postmarked after the due date.
- "Liquefied petroleum gas" has the meaning given by the American Society for Testing and Materials in ASTM D1835-82, "Standard Specification for Liquid Petroleum Gases."
- "Lowest Achievable Emission Rate" or "LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. The application of this term cannot permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants.

- "LRAPA" means the Lane Regional Air Protection Agency, a regional air quality control authority.
- "Maintenance area" means any area that was formerly nonattainment for a criteria pollutant but has since met the ambient air quality standard, and EPA has approved a maintenance plan to comply the standards pursuant to under 40 CFR 51.110. Maintenance areas are designated by the LRAPA Board according to title 29.
- "Maintenance pollutant" means a regulated pollutant for which a maintenance area was formerly designated a nonattainment area.
- "Major Modification" means any physical change or change in the method of operation of a source that results in satisfying the requirements of 38-0025.
- "Major New Source Review" or "Major NSR" means the new source review process and requirements under 38-0010 through 38-0070 and 38-0500 through 38-0540 based on the location and regulated pollutants emitted.
- "Major Source":
 - A. Except as provided in subsection B., means a source that emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate. The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.
 - B. As used in LRAPA ~~¶~~ Title 34, Stationary Source Notification Requirements, OAR 340 division 218, rules applicable to sources required to have LRAPA Title V Operating Permits, OAR 340 division 220, Title V Operating Permit Fees, section 37-0066 Standard ACDPs, and LRAPA ~~¶~~ Title 33, Emission Standards for Specific Industries, means any stationary source or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person or persons under common control belonging to a single major industrial grouping or supporting the major industrial group and that is described in paragraphs (1), (2), or (3). For the purposes of this subsection, a stationary source or group of stationary sources is considered part of a single industrial grouping if all of the regulated pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.
 - (1) A major source of hazardous air pollutants, which means:
 - (i) For hazardous air pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any single hazardous air pollutant that has been

listed ~~pursuant to~~ under 44-020; 25 tons per year or more of any combination of such hazardous air pollutants, unless the Administrator establishes a lesser quantity. Emissions from any oil or gas exploration or production well, along with its associated equipment, and emissions from any pipeline compressor or pump station will not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

- (ii) For radionuclides, "major source" will have the meaning specified by the Administrator by rule.
- (2) A major stationary source of regulated pollutants, as defined in section 302 of the FCAA, that directly emits or has the potential to emit 100 tons per year or more of any regulated air pollutant, except greenhouse gases, including any major source of fugitive emissions of any such regulated pollutant. The fugitive emissions of a stationary source are not considered in determining whether it is a major stationary source for the purposes of section 302(j) of the FCAA, unless the source belongs to one of the following categories of stationary sources:
- (i) Coal cleaning plants (with thermal dryers);
 - (ii) Kraft pulp mills;
 - (iii) Portland cement plants;
 - (iv) Primary zinc smelters;
 - (v) Iron and steel mills;
 - (vi) Primary aluminum ore reduction plants;
 - (vii) Primary copper smelters;
 - (viii) Municipal incinerators capable of charging more than 50 tons of refuse per day;
 - (ix) Hydrofluoric, sulfuric, or nitric acid plants;
 - (x) Petroleum refineries;
 - (xi) Lime plants;
 - (xii) Phosphate rock processing plants;
 - (xiii) Coke oven batteries;
 - (xiv) Sulfur recovery plants;
 - (xv) Carbon black plants (furnace process);

- (xvi) Primary lead smelters;
 - (xvii) Fuel conversion plants;
 - (xviii) Sintering plants;
 - (xix) Secondary metal production plants;
 - (xx) Chemical process plants, excluding ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
 - (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
 - (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - (xxvii) All other stationary source categories, that as of August 7, 1980, is being regulated by a standard promulgated under section 111 or 112 of the FCAA.
- (3) From July 1, 2011 through November 6, 2014, a major stationary source of regulated pollutants, as defined by Section 302 of the FCAA, that directly emits or has the potential to emit 100 tons per year or more of GHGs and directly emits or has the potential to emit 100,000 tons per year or more CO₂e, including fugitive emissions.
- "Material balance" means a procedure for calculating emissions based on the difference between the amount of material added to a process and the amount consumed and recovered from a process.
 - "Modification", except as used in the terms "major modification", "permit modification" and "Title I modification", means any physical change to, or change in the method of operation of, a source or part of a source that results in an increase in the source's or part of a source's potential to emit any regulated air pollutant on an hourly basis. Modifications do not include the following:
 - A. Increases in hours of operation or production rates that do not involve a physical change or change in the method of operation;

- B. Changes in the method of operation due to using an alternative fuel or raw material that the source or part of a source was physically capable of accommodating during the baseline period; and
 - C. Routine maintenance, repair and like-for-like replacement of components unless they increase the expected life of the source or part of a source by using component upgrades that would not otherwise be necessary for the source or part of a source to function.
- "Monitoring" means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Monitoring may include record keeping if the records are used to determine or assess compliance (such as records of raw material content and usage, or records documenting compliance with work practice requirements). Monitoring may include conducting compliance tests, such as the procedures in appendix A to 40 CFR part 60, on a routine periodic basis. Requirements to conduct such tests on a one-time basis, or at such times as a regulatory authority may require on a non-regular basis, are not considered monitoring requirements for purposes of this definition. Monitoring may include one or more than one of the following data collection techniques as appropriate for a particular circumstance:
 - A. Continuous emission or opacity monitoring systems.
 - B. Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.
 - C. Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).
 - D. Maintaining and analyzing records of fuel or raw materials usage.
 - E. Recording results of a program or protocol to conduct specific operation and maintenance procedures.
 - F. Verifying emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.
 - G. Visible emission observations and recording.
 - H. Any other form of measuring, recording, or verifying on a routine basis, emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.
 - "Natural gas" means a naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal component is methane.
 - "Netting basis" means an emission rate determined as specified in 42-0046.
 - "Nitrogen oxides" or "NO_x" means all oxides of nitrogen except nitrous oxide.

- "Nonattainment area" means a geographical area within the jurisdiction of the Agency, as designated by the Board, the EQC, or the EPA which exceeds any federal, state or local primary or secondary ambient air quality standard. Nonattainment areas are designated by the Board according to LRAPA title 29 or by the EQC according to division 204.
- "Nonattainment pollutant" means a regulated pollutant for which an area is designated a nonattainment area. Nonattainment areas are designated by the Board according to LRAPA title 29 or by the EQC according to division 204.
- "Normal source operation" means operations that do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.
- "Odor" means the property of an air contaminant that affects the sense of smell.
- "Offset" means an equivalent or greater emission reduction that is required before allowing an emission increase from a source that is subject to Major NSR or State NSR.
- "Opacity" means the degree to which emissions, excluding uncombined water, reduce transmission of light and obscure the view of an object in the background as measured by EPA Method 203B or other method, as specified in each applicable rule.
- "Oregon Title V Operating Permit", "Title V Permit", or "LRAPA Title V Operating Permit" means written authorization issued, renewed, amended, or revised ~~pursuant to~~ under OAR 340 division 218.
- "Oregon Title V operating permit program" or "Title V program" means the Oregon program described in OAR division 218 and approved by the Administrator under 40 CFR part 70.
- "Oregon Title V operating permit program source" "Title V program source" means any source subject to the permitting requirements, OAR 340 division 218.
- "Ozone precursor" means nitrogen oxides and volatile organic compounds.
- "Ozone season" means the contiguous 3 month period during which ozone exceedances typically occur, i.e., June, July, and August.
- "Particleboard" means mat-formed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.
- "Particulate matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by the test method specified in each applicable rule, or where not specified by rule, in the permit.
- "Permit" means an Air Contaminant Discharge Permit or an LRAPA Title V Operating Permit, permit attachment and any amendments or modifications thereof.

- "Permit modification" means a permit revision that meets the applicable requirements of LRAPA title 37, title 38, or OAR 340-218-0160 through 340-218-0180.
- "Permit revision" means any permit modification or administrative permit amendment.
- "Permitted emissions" as used in OAR 340 division 220 means each regulated pollutant portion of the PSEL, as identified in an ACDP, LRAPA or Oregon Title V Operating Permit, review report, or by DEQ ~~pursuant to~~under OAR 340-220-0090.
- "Permittee" means the owner or operator of facility source, authorized to emit regulated pollutants under an Air Contaminant Discharge Permit or the Oregon or LRAPA Title V Operating Permit.
- "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State of Oregon and any agencies thereof, and the federal government and any agencies thereof.
- "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual regulated pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one permitted emission for purposes of Oregon Title V Operating Permit Fees in OAR 340 division 220.
- "Plywood" means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.
- "PM₁₀":
 - A. When used in the context of emissions, means emissions of finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified in rule, in each individual permit.
 - B. When used in the context of ambient concentration, means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured under 40 CFR part 50 Appendix J or an equivalent method designated under 40 CFR part 53.
- "PM_{2.5}":
 - A. When used in the context of direct PM_{2.5} emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified by rule, in each individual permit.

- B. When used in the context of PM_{2.5} precursor emissions, means sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified by rule, in each individual permit.
- C. When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured under 40 CFR part 50, Appendix L, or an equivalent method designated under 40 CFR part 53.
- "PM_{2.5} fraction" means the emissions weighted average of the fraction of PM_{2.5} in relation to PM₁₀ for each emissions unit that is included in the netting basis and PSEL.
 - "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated pollutant.
 - "Portable" means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
 - "Potential to emit" or "PTE" means the lesser of:
 - A. The regulated pollutant emissions capacity of a stationary source; or
 - B. The maximum allowable regulated pollutant emissions taking into consideration any physical or operational limitation, including the use of control devices and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation is enforceable by the Administrator.
 - C. This definition does not alter or affect the use of this term for any other purposes under the FCAA or the term "capacity factor" as used in Title IV of the FCAA and the regulations promulgated thereunder. Secondary emissions are not considered in determining the potential to emit.
 - "ppm" means parts per million by volume unless otherwise specified in the applicable rule or an individual permit. It is a dimensionless unit of measurement for gases that expresses the ratio of the volume of one component gas to the volume of the entire sample mixture of gases.
 - "Predictive emission monitoring system" or "PEMS" means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.
 - "Press/cooling vent" means any opening through which particulate and gaseous emissions from plywood, particleboard, or hardboard manufacturing are exhausted, either by natural draft or powered fan, from the building housing the process. Such openings are generally located immediately above the board press, board unloader, or board cooling area.

- "Process upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.
- "Proposed permit" means the version of an LRAPA Title V Operating Permit that LRAPA proposes to issue and forwards to the Administrator for review in compliance with OAR 340-218-0230.
- "Reattainment area" means an area that is designated as nonattainment and has three consecutive years of monitoring data that shows the area is meeting the ambient air quality standard for the regulated pollutant for which the area was designated a nonattainment area, but a formal redesignation by EPA has not yet been approved. Reattainment areas are designated by the EQC according to division 204 and LRAPA according to title 29.
- "Reattainment pollutant" means a regulated pollutant for which an area is designated a reattainment area.
- "Reference method" means any method of sampling and analyzing for a regulated pollutant as specified in 40 CFR part 52, 60, 61 or 63.
- "Regional Agency" means the Lane Regional Air Protection Agency
- "Regulated air pollutant" or "Regulated Pollutant":
 - A. Except as provided in subsections B., ~~and C.~~, and D. means:
 - (1) Nitrogen oxides or any VOCs;
 - (2) Any pollutant for which an ambient air quality standard has been promulgated, including precursors of such pollutants;
 - (3) Any pollutant that is subject to any standard promulgated under section 111 of the FCAA;
 - (4) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the FCAA;
 - (5) Any pollutant listed under 44-020 or 40 CFR 68.130; ~~and~~
 - (6) Greenhouse gases; and
 - (7) Toxic air contaminants.
 - B. As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, regulated pollutant means particulate matter, volatile organic compounds, oxides of nitrogen and sulfur dioxide:
 - C. As used in LRAPA ~~¶~~ Title 42, Plant Site Emission Limits, and ~~¶~~ Title 38, New Source Review, regulated pollutant does not include any pollutant listed in LRAPA titles 44 and 46.

D. As used in LRAPA Title 20, Indirect Sources through Title 34, Stationary Source Notification Requirements; and Title 37 Air Contaminant Discharge Permits through Title 51, Air Pollution Emergencies; regulated pollutant means only the air contaminants listed under subsections A.(1) through A.(6).

- "Removal efficiency" means the performance of an air pollution control device in terms of the ratio of the amount of the regulated pollutant removed from the airstream to the total amount of regulated pollutant that enters the air pollution control device.
- "Renewal" means the process by which a permit is reissued at the end of its term.
- "Residual fuel oil" means any oil meeting the specifications of ASTM Grade 4, Grade 5 or Grade 6 fuel oils.
- "Responsible official" means one of the following:
 - A. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - (1) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - (2) The delegation of authority to such representative is approved in advance by DEQ or LRAPA.
 - B. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
 - C. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of LRAPA title 12, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of EPA (e.g., a Regional Administrator of the EPA); or
 - D. For affected sources:
 - (1) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the FCAA or the regulations promulgated there under are concerned; and
 - (2) The designated representative for any other purposes under the Oregon Title V Operating Permit program.

- "Reviewing agency", where found in the federal rule, means LRAPA, the DEQ, or the EPA, as applicable.
- "Secondary emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:
 - A. Emissions from ships and trains coming to or from a facility;
 - B. Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.
- "Section 111" means section of the FCAA, 42 U.S.C. § 7411, which includes Standards of Performance for New Stationary Sources (NSPS).
- "Section 111(d)" means subsection 111(d) of the FCAA, 42 U.S.C. § 7411(d), which requires states to submit to the EPA plans that establish standards of performance for existing sources and provides for implementing and enforcing such standards.
- "Section 112" means section 112 of the FCAA, 42 U.S.C. § 7412, which contains regulations for Hazardous Air Pollutants
- "Section 112(b)" means that subsection of the FCAA, 42 U.S.C. § 7412(b), which includes the list of hazardous air pollutants to be regulated.
- "Section 112(d)" means subsection of the FCAA, 42 U.S.C. § 7412(d), which directs the EPA to establish emissions standards for sources of Hazardous Air Pollutants. This section also defines the criteria to be used by EPA when establishing the emission standards.
- "Section 112(e)" means subsection of the FCAA, 42 U.S.C. § 7412(e), which directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit Hazardous Air Pollutants.
- "Section 112(r)(7)" means subsection 112(r)(7) of the FCAA, 42 U.S.C. § 7412(r)(7), which requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.
- "Section 114(a)(3)" means subsection 114(a)(3) of the FCAA, 42 U.S.C. § 7414(a)(3), which requires enhanced monitoring and submission of compliance certifications for major sources.
- "Section 129" means section of the FCAA, 42 U.S.C. § 7429, which requires EPA to promulgate regulations for solid waste combustion.
- "Section 129(e)" means subsection 129(e) of the FCAA, 42 U.S.C. § 7429(e), which requires solid waste incineration units to obtain LRAPA Title V Operating Permits.

- "Section 182(f)" means subsection 182(f) of the FCAA, 42 U.S.C. § 7511a(f), which requires states to include plan provisions in the SIP for NO_x in ozone nonattainment areas.
- "Section 182(f)(1)" means subsection 182(f)(1) of the FCAA, 42 U.S.C. § 7511a(f)(1), which requires states to apply those plan provisions developed for major VOC sources and major NO_x sources in ozone nonattainment areas.
- "Section 183(e)" means subsection 183(e) of the FCAA, 42 U.S.C. § 7511b(e), which requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.
- "Section 183(f)" means subsection 183(f) of the FCAA, 42 U.S.C. § 7511b(f), which requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.
- "Section 184" means section 184 of the FCAA, 42 U.S.C. § 7511c, which contains regulations for the control of interstate ozone air pollution.
- "Section 302" means section 302 of the FCAA, 42 U.S.C. § 7602, which contains definitions for general and administrative purposes in the FCAA.
- "Section 302(j)" means subsection 302(j) of the FCAA, 42 U.S.C. § 7602(j), which contains definitions of "major stationary source" and "major emitting facility."
- "Section 328" means section 328 of the FCAA, 42 U.S.C. § 7627, which contains regulations for air pollution from outer continental shelf activities.
- "Section 408(a)" means subsection 408(a) of the FCAA, 42 U.S.C. § 7651g(a), which contains regulations for the Title IV permit program.
- "Section 502(b)(10) change" means a change which contravenes an expressed Title V permit term but is not a change that:
 - A. Would violate applicable requirements;
 - B. Would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or
 - C. Is a FCAA Title I modification.
- "Section 504(b)" means subsection 504(b) of the FCAA, 42 U.S.C. § 7661c(b), which states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.
- "Section 504(e)" means subsection 504(e) of the FCAA, 42 U.S.C. § 761c(e), which contains regulations for permit requirements for temporary sources.

- "Significant emission rate" or "SER," except as provided in subsections A and B, means an emission rate equal to or greater than the rates specified for the regulated pollutants in Table 2 below:

TABLE 2 LRAPA Title 12 SIGNIFICANT EMISSION RATES FOR POLLUTANTS REGULATED UNDER THE CLEAN AIR ACT		
Row	Pollutant	Emission Rate
(a)	Greenhouse gases (CO ₂ e)	75,000 tons/year
(b)	Carbon monoxide except as noted in row (c) below	100 tons/year
(c)	Carbon monoxide in a serious nonattainment area, provided LRAPA has determined that stationary sources contribute significantly to carbon monoxide levels in that area	50 tons/year
(d)	Nitrogen oxides (NO _x)	40 tons/year
(e)	Particulate matter	25 tons/year
(f)	PM ₁₀	15 tons/year
(g)	Direct PM _{2.5}	10 tons/year
(h)	PM _{2.5} precursors (NO _x or SO ₂)	40 tons/year
(i)	Sulfur dioxide (SO ₂)	40 tons/year
(j)	Ozone precursors (VOC or NO _x), except as noted in rows (k) and (l), below:	40 tons/year
(k)	Ozone precursors in a serious or severe ozone nonattainment area	25 tons/year
(l)	Ozone precursors in an extreme ozone nonattainment area	Any emissions increase
(m)	Lead	0.6 ton/year
(n)	Fluorides	3 tons/year
(o)	Sulfuric acid mist	7 tons/year
(p)	Hydrogen sulfide	10 tons/year
(q)	Total reduced sulfur (including hydrogen sulfide)	10 tons/year
(r)	Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year
(s)	Municipal waste combustor organics (measured as total tetra-through octa- chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035 ton/year
(t)	Municipal waste combustor metals (measured as particulate matter)	15 tons/year
(u)	Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40 tons/year
(v)	Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tons/year
(w)	Ozone depleting substances in aggregate	100 tons/year

- A. For the regulated pollutants not listed in Table 2 above, the SER is zero unless LRAPA or DEQ determines the rate constitutes a SER.
- B. Any new source or modification with an emissions increase less than the rates specified

above that is located within 10 kilometers of a Class I area, and would have an impact on such an area equal to or greater than 1 ug/m³ (24 hour average) is emitting at a SER. This subsection does not apply to greenhouse gas emissions.

- "Significant impact" means an additional ambient air quality concentration equal to or greater than the significant impact level. For sources of VOC or NO_x, source has a significant impact if it is located within the ozone impact distance defined in LRAPA title 40.
- "Significant impact level" or "SIL" means the ambient air quality concentrations listed in Table 1 below. The threshold concentrations listed below are used for comparison against the ambient air quality standards and PSD increments established under OAR 340 division 202 or LRAPA title 50, but do not apply for protecting air quality related values, including visibility.

TABLE 1				
LRAPA Title 12				
SIGNIFICANT IMPACT LEVEL:				
Pollutant	Averaging Time	Air Quality Area Designation		
		Class I	Class II	Class III
SO ₂ (µg/m ³)	Annual	0.10	1.0	1.0
	24-hour	0.20	5.0	5.0
	3-hour	1.0	25.0	25.0
	1-hour	---	8.0	---
PM ₁₀ (µg/m ³)	Annual	0.20	0.2	0.2
	24-hour	0.30	1.0	1.0
PM _{2.5} (µg/m ³)	Annual	0.06	0.3	0.3
	24-hour	0.07	1.2	1.2
NO ₂ (µg/m ³)	Annual	0.10	1.0	1.0
	1-hour	---	8.0	---
CO (mg/m ³)	8 hour	---	0.5	0.5
	1-hour	---	2.0	2.0

- "Significant impairment" occurs when LRAPA determines that visibility impairment interferes with the management, protection, preservation, or the enjoyment of the visual experience of visitors within a Class I area. LRAPA will make this determination on a case-by-case basis, considering the recommendation of the Federal Land Manager, the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I Area, and the frequency and occurrence of natural conditions that reduce visibility.
- "Small scale local energy project" means:
 - A. A system, mechanism or series of mechanisms located primarily in Oregon that directly or indirectly uses or enables the use of, by the owner or operator, renewable resources including, but not limited to, solar, wind, geothermal, biomass, waste heat

- or water resources to produce energy, including heat, electricity and substitute fuels, to meet a local community or regional energy need in this state;
- B. A system, mechanism or series of mechanisms located primarily in Oregon or providing substantial benefits to Oregon that directly or indirectly conserves energy or enables the conservation of energy by the owner or operator, including energy used in transportation;
 - C. A recycling project;
 - D. An alternative fuel project;
 - E. An improvement that increases the production or efficiency, or extends the operating life, of a system, mechanism, series of mechanisms or project otherwise described in this section, including but not limited to restarting a dormant project;
 - F. A system, mechanism or series of mechanisms installed in a facility or portions of a facility that directly or indirectly reduces the amount of energy needed for the construction and operation of the facility and that meets the sustainable building practices standard established by the State Department of Energy by rule; or
 - G. A project described in subsections A. to F., whether or not the existing project was originally financed under ORS 470, together with any refinancing necessary to remove prior liens or encumbrances against the existing project.
 - H. A project described in subsections A. to G. that conserves energy or produces energy by generation or by processing or collection of a renewable resource.
- "Source" means any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all air contaminant emitting activities that belong to a single major industrial group i.e., that have the same two-digit code, as described in the Standard Industrial Classification Manual, U.S. Office of Management and Budget, 1987, or that support the major industrial group.
 - "Source category":
 - A. Except as provided in subsection B., means all the regulated pollutant emitting activities that belong to the same industrial grouping, i.e., that have the same two-digit code as described in the Standard Industrial Classification Manual, U.S. Office of Management and Budget, 1987.
 - B. As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, means a group of major sources that LRAPA and DEQ determines are using similar raw materials and have equivalent process controls and pollution control device.
 - "Source test" means the average of at least three test runs conducted under DEQ's Source Sampling Manual.

- "Standard conditions" means a gas temperature of sixty-eight (68) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.
- "Startup" and "Shutdown" means the time during which a source or control device is brought into normal operation or normal operation is terminated, respectively.
- "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040 and approved by EPA.
- "State New Source Review" or "State NSR" means the new source review process and requirements under 38-0010 through 38-0038, 38-0245 through 38-0270 and 38-0500 through 38-0540 based on the location and regulated pollutants emitted.
- "Stationary Source" means any building, structure, facility, or installation at a source that emits or may emit any regulated pollutant. Stationary source includes portable sources that are required to have permits under LRAPA title 37.
- "State or State or Local Control Agency", where found in 40 CFR 51.118, means LRAPA or DEQ.
- "Substantial underpayment" means the lesser of 10 percent of the total interim emission fee for the major source or five hundred dollars.
- "Sustainment area" means a geographical area of the state for which LRAPA has ambient air quality monitoring data that shows an attainment or unclassified area could become a nonattainment area but a formal redesignation by EPA has not yet been approved. The presumptive geographic boundary of a sustainment area is the applicable urban growth boundary in effect on the date this rule was last approved by the Board, unless superseded by rule. Sustainment areas are designated by the Board according to LRAPA title 29.
- "Sustainment pollutant" means a regulated pollutant for which an area is designated a sustainment area.
- "Synthetic minor source" means a source that would be classified as a major source under LRAPA title 12, but for limits on its potential to emit regulated pollutants contained in an ACDP or Title V permit issued by LRAPA.
- "Title I modification" means one of the following modifications ~~pursuant to~~under Title I of the FCAA:
 - A. A major modification subject to Section 38-0050, Requirements for Sources in Nonattainment Areas or Section 38-0055, Requirements for Sources in Reattainment Areas;

- B. A major modification subject to Section 38-0060, Requirements for Sources in Maintenance Areas;
 - C. A major modification subject to Section 38-0070, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas or Section 38-0045 Requirements for Sources in Sustainment Areas;
 - D. A modification that is subject to a New Source Performance Standard under Section 111 of the FCAA; or
 - E. A modification under Section 112 of the FCAA.
- "Total reduced sulfur (TRS)" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present, expressed as hydrogen sulfide (H₂S).
 - "Toxic air contaminant" means an air pollutant that has been determined by the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health and is listed in OAR 340-245-8020 Table 2.
 - "Type A State NSR" means State NSR as specified in 38-0010(2)(a).
 - "Type B State NSR" means State NSR that is not Type A State NSR.
 - "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit under 32-008.
 - "Unassigned emissions" means the amount of emissions that are in excess of the PSEL but less than the netting basis.
 - "Unavoidable" or "could not be avoided" means events which are not caused entirely or in part by design, operation, maintenance, or any other preventable condition in either process or control device.
 - "Unclassified area" or "attainment area" means an area that has not otherwise been designated by EPA as nonattainment with ambient air quality standards for a particular regulated pollutant. Attainment areas or unclassified areas may also be referred to as sustainment or maintenance areas as designated in LRAPA title 29. Any particular location may be part of an attainment area or unclassified area for one regulated pollutant while also being in a different type of designated area for another regulated pollutant.
 - "Uncombined Water" means water which is not chemically bound to a substance.
 - "Upset" or "Breakdown" means any failure or malfunction of any pollution control device or operating equipment that may cause excess emissions.

- "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.
 - "Veneer dryer" means equipment in which veneer is dried.
 - "Visibility impairment" means any humanly perceptible change in visual range, contrast or coloration from that which existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.
 - "Volatile organic compound" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.
- A. This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:
- (1) methane;
 - (2) ethane;
 - (3) methylene chloride (dichloromethane);
 - (4) dimethyl carbonate; propylene carbonate;
 - (5) 1,1,1-trichloroethane (methyl chloroform);
 - (6) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
 - (7) trichlorofluoromethane (CFC-11);
 - (8) dichlorodifluoromethane (CFC-12);
 - (9) chlorodifluoromethane (HCFC-22);
 - (10) trifluoromethane (HFC-23);
 - (11) 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);
 - (12) chloropentafluoroethane (CFC-115);
 - (13) 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123);
 - (14) 1,1,1,2-tetrafluoroethane (HFC-134a);
 - (15) 1,1-dichloro-1-fluoroethane (HCFC-141b);
 - (16) 1-chloro-1,1-difluoroethane (HCFC-142b);
 - (17) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
 - (18) HCFC 225ca and cb;
 - (19) HFC 43-10mee;
 - (20) pentafluoroethane [2] (HFC-125);
 - (21) 1,1,2,2-tetrafluoroethane (HFC-134);
 - (22) 1,1,1-trifluoroethane (HFC-143a);
 - (23) 1,1-difluoroethane (HFC-152a);
 - (24) perchlorobenzotrifluoride (PCBTF);
 - (25) cyclic, branched, or linear completely methylated siloxanes;
 - (26) acetone;
 - (27) perchloroethylene (tetrachloroethylene);
 - (28) 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
 - (29) 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
 - (30) 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
 - (31) difluoromethane (HFC-32);
 - (32) ethylfluoride (HFC-161);

- (33) 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
- (34) 1,1,2,2,3-pentafluoropropane (HFC-245ca);
- (35) 1,1,2,3,3-pentafluoropropane (HFC-245ea);
- (36) 1,1,1,2,3-pentafluoropropane (HFC-245eb);
- (37) 1,1,1,3,3-pentafluoropropane (HFC-245fa);
- (38) 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
- (39) 1,1,1,3,3-pentafluorobutane (HFC-365mfc);
- (40) chlorofluoromethane (HCFC-31);
- (41) 1 chloro-1-fluoroethane (HCFC-151a);
- (42) 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
- (43) 1,1,1,2,2,3,3,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃);
- (44) 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃);
- (45) 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅);
- (46) 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅);
- (47) methyl acetate;
- (48) 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C₃F₇OCH₃, HFE-7000);
- (49) 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500);
- (50) 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea);
- (51) methyl formate (HCOOCH₃);
- (52) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300);
- (53) propylene carbonate;
- (54) dimethyl carbonate;
- (55) *trans* -1,3,3,3-tetrafluoropropene (also known as HFO-1234ze);
- (56) HCF₂ OCF₂ H (HFE-134);
- (57) HCF₂ OCF₂ OCF₂ H (HFE-236cal2);
- (58) HCF₂ OCF₂ CF₂ OCF₂ H (HFE-338pcc13);
- (59) HCF₂ OCF₂ OCF₂ CF₂ OCF₂ H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));
- (60) *trans* 1-chloro-3,3,3-trifluoroprop-1-ene (also known as SolsticeTM 1233zd(E));
- (61) 2,3,3,3-tetrafluoropropene (also known as HFO-1234yf);
- (62) 2-amino-2-methyl-1-propanol;
- (63) T-Butyl Acetate (TBAC);
- (64) CHF₂CF₂OCH₂CF₃ (HFE-347pcf2); and
- (65) perfluorocarbon compounds which fall into these classes:
 - (i) Cyclic, branched, or linear, completely fluorinated alkanes;
 - (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
 - (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
 - (iv) Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

- B. For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method under DEQ's Source Sampling Manual. Where such a method also measures compounds with negligible photochemical reactivity, the latter may be excluded as VOC if the amount of such compounds is accurately quantified, and LRAPA approves the exclusion.
- C. LRAPA may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of LRAPA, the amount of negligibly reactive compounds in the source's emissions.
- "Wood-fired veneer dryer" means a veneer dryer that is directly heated by the products of combustion of wood fuel in addition to or exclusive of steam or natural gas or propane combustion.
 - "Wood fuel-fired device" means a device or appliance designed for wood fuel combustion, including cordwood stoves, woodstoves and fireplace stove inserts, fireplaces, wood fuel-fired cook stoves, pellet stoves and combination fuel furnaces and boilers that burn wood fuels.
 - "Year", unless otherwise defined, means any consecutive 12 month period of time.

Section 12-010 Abbreviations and Acronyms

- "AAQS" means ambient air quality standard.
- "ACDP" means Air Contaminant Discharge Permit.
- "ACT" means Federal Clean Air Act.
- "AE" means Actual Emissions.
- "AICPA" means Association of Independent Certified Public Accountants.
- "AQCR" means Air Quality Control Region.
- "AQRV" means Air Quality Related Value
- "AQMA" means Air Quality Maintenance Area.
- "ASME" means American Society of Mechanical Engineers.
- "ASTM" means American Society for Testing & Materials.
- "ATETP" means Automotive Technician Emission Training Program.
- "AWD" means all wheel drive.
- "BACT" means Best Available Control Technology.
- "BART" means Best Available Retrofit Technology.
- "BLS" means black liquor solids.
- "CAA" means Clean Air Act
- "CAR" means control area responsible party.
- "CBD" means central business district.
- "CCTMP" means Central City Transportation Management Plan.
- "CEM" means continuous emissions monitoring.
- "CEMS" means continuous emission monitoring system.
- "CERCLA" means Comprehensive Environmental Response Compensation and Liability Act.
- "CFRMS" means continuous flow rate monitoring system.

- "CFR" means Code of Federal Regulations.
- "CMS" means continuous monitoring system.
- "CO" means carbon monoxide.
- "CO₂e" means carbon dioxide equivalent
- "COMS" means continuous opacity monitoring system.
- "CPMS" means continuous parameter monitoring system.
- "DEQ" means Oregon Department of Environmental Quality.
- "DOD" means Department of Defense.
- "EA" means environmental assessment.
- "ECO" means employee commute options.
- "EEAF" means emissions estimate adjustment factor.
- "EF" means emission factor.
- "EGR" means exhaust gas re-circulation.
- "EIS" means Environmental Impact Statement
- "EPA" means Environmental Protection Agency.
- "EQC" means Environmental Quality Commission.
- "ESP" means electrostatic precipitator.
- "FCAA" means Federal Clean Air Act.
- "FHWA" means Federal Highway Administration.
- "FONSI" means finding of no significant impact.
- "FTA" means Federal Transit Administration.
- "GFA" means gross floor area.
- "GHG" means greenhouse gases
- "GLA" means gross leasable area.
- "GPM" means grams per mile.
- "gr/dscf" means grains per dry standard cubic foot.
- "GTBA" means grade tertiary butyl alcohol.
- "GVWR" means gross vehicle weight rating.
- "HAP" means hazardous air pollutant.
- "HEPA" means high efficiency particulate air.
- "HMIWI" means hospital medical infectious waste incinerator.
- "I/M" means inspection and maintenance program.
- "IG" means inspection grade.
- "IRS" means Internal Revenue Service.
- "ISECP" means indirect source emission control program.
- "ISTEA" means Intermodal Surface Transportation Efficiency Act.
- "LAER" means Lowest Achievable Emission Rate.
- "LDT2" means light duty truck 2.
- "LIDAR" means laser radar; light detection and ranging.
- "LPG" means liquefied petroleum gas.
- "LRAPA" means Lane Regional Air Protection Agency.
- "LUCS" means Land Use Compatibility Statement.
- "MACT" means Maximum Achievable Control Technology.
- "MPO" means Metropolitan Planning Organization.
- "MTBE" means methyl tertiary butyl ether.
- "MWC" means municipal waste combustor.
- "NAAQS" means National Ambient Air Quality Standards.
- "NAICS" means North American Industrial Classification System.

- "NEPA" means National Environmental Policy Act.
- "NESHAP" means National Emissions Standard for Hazardous Air Pollutants.
- "NIOSH" means National Institute of Occupational Safety & Health.
- "NO_x" means nitrogen oxides.
- "NSPS" means New Source Performance Standards.
- "NSR" means New Source Review.
- "NSSC" means neutral sulfite semi-chemical.
- "O₃" means ozone.
- "OAR" means Oregon Administrative Rules.
- "ODOT" means Oregon Department of Transportation.
- "ORS" means Oregon Revised Statutes.
- "OSAC" means orifice spark advance control.
- "OSHA" means Occupational Safety & Health Administration.
- "PCDE" means pollution control device collection efficiency.
- "PEMS" means predictive emission monitoring system.
- "PM" means particulate matter.
- "PM₁₀" means particulate matter less than 10 microns.
- "PM_{2.5}" means particulate matter less than 2.5 microns.
- "POTW" means Publicly Owned Treatment Works.
- "POV" means privately owned vehicle.
- "ppm" means parts per million.
- "PSD" means Prevention of Significant Deterioration.
- "PSEL" means Plant Site Emission Limit.
- "QIP" means quality improvement plan.
- "RACT" means Reasonably Available Control Technology.
- "ROI" means range of influence.
- "RVCOG" means Rogue Valley Council of Governments.
- "RWOC" means running weighted oxygen content.
- "scf" means standard cubic feet.
- "SCS" means speed control switch.
- "SD" means standard deviation.
- "SERP" means source emission reduction plan.
- "SIC" means Standard Industrial Classification from the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987).
- "SIP" means State Implementation Plan.
- "SLAMS" means State or Local Air Monitoring Stations.
- "SO₂" means sulfur dioxide.
- "SOCMI" means synthetic organic chemical manufacturing industry.
- "SOS" means Secretary of State.
- "SPMs" means Special Purpose Monitors.
- "TAC" means thermostatic air cleaner.
- "TACT" means Typically Achievable Control Technology.
- "TCM" means transportation control measures.
- "TCS" means throttle control solenoid.
- "TIP" means Transportation Improvement Program.
- "tpy" means tons per year.
- "TRS" means total reduced sulfur.
- "TSP" means total suspended particulate matter.

- "UGA" means urban growth area.
- "UGB" means urban growth boundary.
- "USC" means United States Code.
- "US DOT" means United States Department of Transportation.
- "UST" means underground storage tanks.
- "UTM" means universal transverse mercator.
- "VIN" means vehicle identification number.
- "VMT" means vehicle miles traveled.
- "VOC" means volatile organic compounds.

Section 12-020 Exceptions

- (1) Except as provided in subsection (2), LRAPA Rules and Regulations do not apply to:
- (a) Agricultural operations, including but not limited to:
 - (A) Growing or harvesting crops;
 - (B) Raising fowl or animals;
 - (C) Clearing or grading agricultural land;
 - (D) Propagating and raising nursery stock;
 - (E) Propane flaming of mint stubble; and
 - (F) Stack or pile burning of residue from Christmas trees, as defined in ORS 571.505, during the period beginning October 1 and ending May 31 of the following year.
 - (b) Equipment used in agricultural operations, except boilers used in connection with propagating and raising nursery stock.
 - (c) Barbeque equipment used in connection with any residence.
 - (d) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families, except woodstoves which shall be subject to regulation under OAR 340 division 262, and as provided in ORS 468A.020(1)(d). Emissions from woodstoves can be used to create emission reduction credits in title 41.
 - (e) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or instruction of employees in the methods of fire fighting, which in the opinion of the agency is necessary.
 - (f) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.
- (2) Section (1) does not apply to the extent:

- (a) Otherwise provided in ORS 468A.555 to 468A.620, 468A.790, 468A.992, 476.380 and 478.960;
- (b) Necessary to implement the ~~f~~Federal Clean Air Act (P.L. 88-206 as amended) under ORS 468A.025, 468A.030, 468A.035, 468A.040, 468A.045 and 468A.300 to 468A.330; or
- (c) Necessary for LRAPA, in the Board's discretion, to implement a recommendation to the Task Force on Dairy Air Quality created under section 3, chapter 799, Oregon Laws 2007, for the regulation of dairy air contaminant emissions.

Section 12-025 Reference Materials

As used in LRAPA Rules and Regulations, the following materials refer to the versions listed below.

- (1) "CFR" means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, ~~2016~~2018 edition.
- (2) The DEQ Source Sampling Manual refers to the ~~March 2015~~November 2018 edition.
- (3) The DEQ Continuous Monitoring Manual refers to the March 2015 edition.

Section 12-030 Compliance Schedules for Existing Sources Affected by New Rules

- (1) No existing source of air contaminant emissions will be allowed to operate out of compliance with the provisions of new rules, unless the owner or operator of that source first obtains a Board-approved compliance schedule which lists the steps being taken to achieve compliance and the final date when compliance will be achieved. Approval of a reasonable time to achieve compliance shall be at the discretion of the Board.
- (2) The owner or operator of any existing air contaminant source found by the Director to be in non-compliance with the provisions of new rules shall submit to the Board for approval a proposed schedule of compliance to meet those provisions. This schedule shall be in accordance with timetables contained in the new rules or in accordance with an administrative order by the Director. This schedule shall contain, as necessary, reasonable time milestones for engineering, procurement, fabrication, equipment installation and process refinement. This request shall also contain documentation of the need for the time extension to achieve compliance and the justification for each of the milestones indicated in the schedule.
- (3) Within one hundred and twenty (120) days of the submittal date of the request, the Board shall act to either approve or disapprove the request. A schedule for compliance becomes effective upon the date of the written order of the Board.
- (4) Compliance schedules of longer than eighteen (18) months' duration shall contain requirements for periodic reporting of progress toward compliance.

- (5) An owner or operator of an air contaminant source operating in non-compliance with these rules, but under an approved compliance schedule, who fails to meet that schedule or make reasonable progress toward completion of that schedule, shall be subject to enforcement procedures in accordance with these rules.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 15

ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

Section 15-001 Policy

- (1) The goals of enforcement are to:
 - (a) Obtain and maintain compliance with LRAPA's statutes, rules, permits and orders;
 - (b) Protect the public health and the environment;
 - (c) Deter future violators and violations; and
 - (d) Ensure an appropriate and consistent enforcement program.
- (2) As required by this title, LRAPA will endeavor by conference, conciliation and persuasion to solicit compliance.
- (3) LRAPA shall address all documented violations in order of seriousness at the most appropriate level of enforcement necessary to achieve the goals set forth in subsection (1).
- (4) Violators who do not comply with an initial enforcement action shall be subject to increasing levels of enforcement until compliance is achieved.

Section 15-003 Scope of Applicability

These amendments shall apply to violations occurring on or after the effective date of such amendments. They shall not apply to cases pending. For purposes of determining Class and Magnitude of violation, only, LRAPA rules and regulations in effect prior to these amendments shall apply to violations occurring before the effective date of these amendments. For purposes of determining number and gravity of prior violations, these amendments will apply.

Section 15-005 Definitions

Words and terms used in this title are defined as follows, unless the context requires otherwise:

- "Alleged Violation" means any violation cited in a written notice issued by LRAPA or other government agency.
- "Class I Equivalent" or "Equivalent," which is used only for the purposes of determining the value of the "P" factor in the civil penalty formula, means two Class II violations, one Class II and two Class III violations, or three Class III violations.

- "Compliance" means meeting the requirements of LRAPA's or DEQ's, EQC's or EPA's rules, permits, permit attachments or orders.
- "Conduct" means an act or omission.
- "Documented Violation" means any violation which LRAPA or other government agency records after observation, investigation or data collection.
- "Enforcement" means any documented action taken to address a violation.
- "Federal Operating Permit Program" means a program approved by the DEQ Administrator under 40 CFR part 70.
- "Flagrant" means any documented violation where the Respondent had actual knowledge of the law and consciously set out to commit the violation.
- "Formal Enforcement Action" means an administrative action signed by the Director or authorized representative which is issued to a Respondent for a documented violation. A formal enforcement action may require the Respondent to take specific action within a specified time frame and/or state the consequences for previous and continued non-compliance.
- "Intentional" means conduct by a person with a conscious objective to cause the result of the conduct.
- "Magnitude of the Violation" means the extent of a violator's deviation from federal, state and LRAPA's statutes, rules, standards, permits or orders.
- "Negligence" or "negligent" means failing to take reasonable care to avoid a foreseeable risk of committing an act or omission constituting a violation.
- "Notice of Civil Penalty Assessment" (NCP) means a notice provided under LRAPA 15-020(3) to notify a person that LRAPA has initiated a formal enforcement action that includes a financial penalty.
- "Order" means a notice provided under subsection 15-020(4).
- "Person" means any individual, public or private corporation, political subdivision, agency, board, department, or bureau of the state, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- "Prior Violation" means any violation established, with or without admission, by payment of a civil penalty, by an order of default, or by a stipulated or final order of LRAPA.
- "Reckless" or "recklessly" means conduct by a person who is aware of and consciously disregards a substantial and unjustifiable risk that the result would occur or that the

circumstance existed. The risk must be of such a nature and degree that disregarding that risk constitutes a gross deviation from the standard of care a reasonable person would observe in that situation.

- "Residential Owner-Occupant" means the natural person who owns or otherwise possesses a single family dwelling unit, and who occupies that dwelling at the time of the alleged violation. The violation must involve or relate to the normal uses of a dwelling unit.
- "Respondent" means the person named in a formal enforcement action (FEA).
- "Violation" means a transgression of any statute, rule, order, license, permit, permit attachment, or any part thereof, and includes both acts and omissions.
- "Willful" means the respondent had a conscious objective to cause the result of the conduct and the respondent knew or had reason to know that the result was not lawful.

Section 15-010 Consolidation of Proceedings

Notwithstanding that each and every violation is a separate and distinct offense and that, in cases of continuing violation, each day's continuance is a separate and distinct violation, proceedings for the assessment of multiple civil penalties for multiple violations may be consolidated into a single proceeding.

Section 15-015 Notice of Violation

When the Director or the Board has cause to believe that a violation has occurred, the Director or authorized representative may document the violation and initiate any of the enforcement actions described in sections 15-018 and 15-020 by serving the appropriate notice to the responsible party or Respondent according to ORS 183 and these rules and regulations. Cause to believe a violation has occurred can be prima facie evidence based on first-hand observations, reports of observations by citizens or government officials, results of tests, instrument reading or any other evidence which the Director finds, in his discretion, to be sufficient to constitute cause to believe.

Section 15-018 Notice of Permit Violations (NPV) and Exceptions

- (1) Prior to assessment of a civil penalty for a violation of the terms or conditions of an Air Contaminant Discharge Permit (ACDP), LRAPA shall provide a Notice of Permit Violation to the permittee. The Notice of Permit Violation shall be in writing, specifying the violation and stating that a civil penalty will be imposed for the permit violation unless the permittee submits one of the following to LRAPA within 5 working days of receipt of the Notice of Permit Violation:
 - (a) A written response from the permittee acceptable to LRAPA certifying that the permitted facility is complying with all terms of the permit from which the violation is cited. The certification shall include a sufficient description of the information on which the permittee is certifying compliance to enable LRAPA to determine that compliance has been achieved.

- (b) A written proposal, acceptable to LRAPA, to bring the facility into compliance with the permit. An acceptable proposal under this rule shall include at least the following:
 - (A) Proposed compliance dates;
 - (B) Proposed date to submit a detailed compliance schedule;
 - (C) A description of the interim steps that will be taken to reduce the impact of the permit violation until the permitted facility is in compliance with the permit;
 - (D) A statement that the permittee has reviewed all other conditions and limitations of the permit, and no other violations of the permit were discovered by the permittee.
- (c) In the event that any compliance schedule to be approved by LRAPA, pursuant to under paragraph (1)(b), provides for a compliance period of greater than 6 months, LRAPA shall incorporate the compliance schedule into an Order described in paragraph 15-020(4)(a) which provides for stipulated penalties in the event of any non-compliance therewith. Stipulated penalties shall not apply to circumstances beyond the reasonable control of the permittee. Stipulated penalties may also be required for compliance periods of less than or equal to 6 months. The stipulated penalties shall be set at amounts consistent with those established under section 15-045.
- (d) The certification allowed in paragraph (1)(a) shall be signed by a Responsible Official, based on information and belief after making reasonable inquiry. For purposes of this rule, "Responsible Official" of the permitted facility means one of the following:
 - (A) For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the manager of one or more manufacturing, production, or operating facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (B) For a partnership or sole proprietorship, a general partner or the proprietor, respectively.
 - (C) For a municipality, state, federal, or other public agency, either a principal executive officer or appropriate elected official.
- (2) No advance notice prior to assessment of a civil penalty shall be required under subsection (1), and LRAPA may issue a Notice of Civil Penalty Assessment (NCP), without any preconditions, if:
 - (a) The violation is intentional;
 - (b) The violation would not normally occur for 5 consecutive days;
 - (c) The permittee has received a Notice of Permit Violation or other formal enforcement

action with respect to any violation of the permit within 36 months immediately preceding the alleged violation;

- (d) The permittee is subject to the Oregon Title V operating permit program and violates any rule or standard adopted or any permit or order issued under ORS 468.A and applicable to the permittee; or
- (e) The requirement to provide an NPV would disqualify a state program from federal approval or delegation. The permits and permit conditions to which this NPV exception applies include:
 - (A) Air Contaminant Discharge Permit (ACDP) conditions that implement the State Implementation Plan under the Federal Clean Air Act (FCAA);
- (f) The permittee has an ACDP and violates any New Source Performance Standard (NSPS) or National Emission Standards for Hazardous Air Pollutants (NESHAP) requirement contained in the permit.

For purposes of this section, "permit" includes permit renewals and modifications, and no such renewal or modification shall result in the requirement that LRAPA provide the permittee with an additional advance warning if the permittee has received a Notice of Permit Violation or other formal enforcement action with respect to the permit within 36 months immediately preceding the alleged violation.

Section 15-020 Enforcement Actions

(1) Notice of Non-compliance (NON):

- (a) Informs a person of a violation and the consequences of the violation or continued non-compliance. The notice may state the actions required to resolve the violation and may specify a time by which compliance is to be achieved. The notice may state that further enforcement action may, or will be taken.
- (b) Shall be issued under the direction of the Director or authorized representative.
- (c) Shall be issued for, but is not limited to, all classes of documented violations.
- (d) May be issued prior to issuance of a Notice of Civil Penalty or an Order.

(2) Notice of Permit Violation (NPV):

- (a) Is issued ~~pursuant to~~ under section 15-018.
- (b) Shall be issued by the Director or authorized representative.
- (c) Shall be issued for, but is not limited to, the first occurrence of a documented Class I permit violation which is not excepted under subsection 15-018(2), or the repeated or continuing occurrence of documented Class II or III permit violations not excepted

under subsection 15-018(2), or where a NON has failed to achieve compliance or satisfactory progress toward compliance. A permittee shall not receive more than three NONs for Class II violations of the same permit within a 36 month period without being issued an NPV.

(3) Notice of Civil Penalty Assessment (NCP):

- (a) Is issued ~~pursuant to~~ ORS 468.130, ORS 468.140, and sections 15-015, 15-025 and 15-030.
- (b) Shall be issued by the Director or authorized representative.
- (c) May be issued for, but is not limited to, the occurrence of any class of documented violation that is not limited by the NPV requirement of section 15-018.

(4) Order:

- (a) Is issued ~~pursuant to~~ ORS Chapters 183, 468, or 468A, and title 14;
- (b) May be in the form of a Board or Director Order or a Stipulation and Final Order (SFO):
 - (A) Board Orders shall be issued by the Board, or by the Director on behalf of the Board;
 - (B) Director Orders shall be issued by the Director or authorized representative;
 - (C) All Other Orders:
 - (i) May be negotiated;
 - (ii) Shall be signed by the Director or authorized representative and the authorized representative of each other party.
- (c) May be issued for any class of violations.

(5) The enforcement actions described in subsections (1) through (4) shall not limit the Director or Board from seeking legal or equitable remedies as provided by ORS Chapters 468 and 468A.

Section 15-025 Civil Penalty Schedule Matrices

(1) In addition to any liability, duty or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to the Board's and Director's authorizing rules, regulations, permits or orders by service of a written Notice of Civil Penalty Assessment upon the Respondent. Except for civil penalties assessed under sections 15-045 and 15-050 (stipulated or intentional/reckless), or title 16, the amount of any civil penalty shall be determined through the use of the following matrices, in conjunction with the formula

contained in section 15-030:

(a) \$12,000 Penalty Matrix:

Magnitude	Major	Moderate	Minor
Class I	\$12,000	\$6,000	\$3,000
Class II	\$6,000	\$3,000	\$1,500
Class III	\$1,000	\$1,000	\$1,000

(A) The \$12,000 penalty matrix applies to the following:

- (i) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued ~~pursuant to~~ under New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the Federal Clean Air Act.
- (ii) Outdoor burning violations as follows:
 - (I) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit;
 - (II) Any violation of paragraph 47-015(1)(e) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(b) \$8,000 Penalty Matrix:

Magnitude	Major	Moderate	Minor
Class I	\$8,000	\$4,000	\$2,000
Class II	\$4,000	\$2,000	\$1,000
Class III	\$700	\$700	\$700

(A) The \$8,000 penalty matrix applies to the following:

- (i) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have an ACDP, except for NSR, PSD, and Basic ACDP permits unless listed under another penalty matrix;
- (ii) Any violation of an asbestos statute, rule, permit or related order except those violations listed in sub-subparagraph (d)(A)(ii) of this rule.

(c) \$3,000 Penalty Matrix:

Magnitude	Major	Moderate	Minor
Class I	\$3,000	\$1,500	\$750
Class II	\$1,500	\$750	\$375
Class III	\$250	\$250	\$250

(A) The \$3,000 penalty matrix applies to the following:

- (i) Any violation of an air quality statute, rule, permit, permit attachment, license, or related order committed by a person not listed under another penalty matrix;
- (ii) Any violation of an air quality statute, rule, permit, permit attachment, -or related order committed by a person that has or should have a Basic ACDP or an ACDP or registration only because the person is subject to Area Source NESHAP regulations; or
- (iii) Any violation of paragraph 47-015(1)(e) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(d) \$1,000 Penalty Matrix:

Magnitude	Major	Moderate	Minor
Class I	\$1,000	\$500	\$250
Class II	\$500	\$250	\$125
Class III	\$100	\$100	\$100

(A) The \$1,000 penalty matrix applies to the following:

- (i) Any violation of an outdoor burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix;
- (ii) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.
- (iii) Any violation of OAR 340-262-0900(1) or OAR 340-262-0900(2) committed by a residential owner-occupant at the residence.

Section 15-030 Civil Penalty Determination Procedure (Mitigating and Aggravating

Factors)

(1) When determining the amount of civil penalty to be assessed for any violation, other than violations of title 16 which are determined in title 16, and of ORS 468.996 which are determined according to the procedure set forth below in section 15-050, the Director or authorized representative shall apply the following procedures:

- (a) Determine the class and the magnitude of each violation;
- (b) Choose the appropriate base penalty (BP) established by the matrices of section 15-025 after determining the class and magnitude of each violation;
- (c) Starting with the base penalty (BP), determine the amount of penalty through application of the formula:

$BP + [(.1 \times BP)(P + H + O + M + C)] + EB$ where:

(A) "P" is whether the Respondent has any prior violations of statutes, rules, orders and permits pertaining to environmental quality or pollution control. For the purpose of determining "P," Class I violation or equivalent means two Class II violations, one Class II and two Class III violations, or three Class III violations. The values for "P" and the finding which supports each are as follows:

- (i) 0 if no prior violations or there is insufficient information on which to base a finding;
- (ii) 1 if the prior violation is one Class II or two Class III's; or
- (iii) 2 if the prior violation(s) is one Class I or equivalent.
- (iv) For each additional Class I violation or Class I equivalent, the value of "P" is increased by 1.
- (v) 10 if the prior violations are nine or more class I violations or equivalents, or if any of the prior violations were issued for any violation of ORS 468.996 (Civil Penalty for Intentional or Reckless Violation);
- (vi) The value of "P" will not exceed 10.
- (vii) In determining the appropriate value for prior violations as listed above, LRAPA shall reduce the appropriate factor by:
 - (I) 2 if all the prior violations were issued more than 3 years before the date the current violation occurred;
 - (II) 4 if all the prior violations were issued more than 5 years before the date the current violation occurred.

- (viii) Include all prior violations at all facilities owned or operated by the same violator within the state of Oregon;
 - (ix) The value of "P" may not be reduced below 0;
 - (x) Any prior violation which occurred more than 10 years prior to the time of the present violation shall not be included in the above determination.
- (B) "H" is past history of the Respondent in taking all feasible steps or procedures necessary or appropriate to correct any prior violations. The sum of the values for "P" and "H" may not be less than one unless the Respondent took extraordinary efforts to correct or minimize the effects of all prior violations. In no case shall the combination of the "P" factor and the "H" factor be a value less than zero. In such cases where the sum of the "P" and "H" values is a negative numeral, the finding and determination for the combination of these two factors shall be zero. The values for "H" and the finding which supports each are as follows:
- (i) -2 if Respondent corrected each prior violation;
 - (ii) -1 if violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as prior violations;
 - (iii) 0 if there is no prior history or if there is insufficient information on which to base a finding;
- (C) "O" is whether the violation was repeated or continuousongoing. A violation can be repeated independently on the same day, thus multiple occurrences may occur within one day. Each repeated occurrence of the same violation and each day of a violation with a duration of more than one day is a separate occurrence when determining the "O" factor. Each separate violation is also a separate occurrence when determining the "O" factor. The values for "O" and the finding which supports each are as follows:
- (i) 0 if there was only one occurrence of the violation or if there is insufficient information on which to base a finding under sub-subparagraphs (C)(ii) through (C)(v);
 - (ii) 2 if there were more than one but less than seven occurrences of the violation;
 - (iii) 3 if there were from seven to 28 occurrences of the violation;
 - (iv) 4 if there were more than 28 occurrences of the violation;
 - (v) LRAPA may, at its discretion, assess separate penalties for each occurrence of a violation. If LRAPA does so, the "O" factor for each affected violation will be set at 0. If LRAPA assesses one penalty for multiple occurrences, the penalty will be based on the highest classification and magnitude applicable

to any of the occurrences.

- (D) "M" is the mental state of the Respondent. For any violation where the findings support more than one mental state, the mental state with the highest value will apply. The values for "M" and the finding that supports each are as follows:
- (i) 0 if there is insufficient information on which to base a finding under sub-subparagraphs (D)(ii) through (D)(iv).
 - (ii) 2 if the Respondent had constructive knowledge (reasonably should have known) that the conduct would be a violation.
 - (iii) 4 if the Respondent's conduct was negligent.
 - (iv) 8 if the Respondent's conduct was reckless or the Respondent acted or failed to act intentionally with actual knowledge of the requirement.
 - (v) 10 if the Respondent acted flagrantly.
- (E) "C" is the Respondent's efforts to correct or mitigate the violation. The values for "C" and the finding which supports each are as follows:
- (i) -5 if the Respondent made extraordinary efforts to correct the violation or to minimize the effects of the violation, and made extraordinary efforts to ensure the violation would not be repeated.
 - (ii) -4 if the Respondent made extraordinary efforts to ensure that the violation would not be repeated.
 - (iii) -3 if the Respondent made reasonable efforts to correct the violation, or took reasonable affirmative efforts to minimize the effects of the violation.
 - (iv) -2 if the Respondent eventually made some efforts to correct the violation, or to minimize the effects of the violation.
 - (v) -1 if the Respondent made reasonable efforts to ensure that the violation would not be repeated.
 - (vi) 0 if there is insufficient information to make a finding under sub-subparagraphs (E)(i) through (E)(v) or (E)(vii) or if the violation or the effects of the violation could not be corrected or minimized.
 - (vii) 2 if the Respondent did not address the violation as described in sub-subparagraphs (E)(i) through (E)(v) and the facts do not support a finding under sub-subparagraph (E)(viii)
- (F) "EB" is the approximated dollar value of the economic benefit gained and the costs avoided or delayed (without duplication) as a result the Respondent's

noncompliance. The EB may be determined using the U. S. Environmental Protection Agency's BEN computer model. LRAPA may make, for use in the model, a reasonable estimate of the benefits gained and the costs avoided or delayed by the respondent.

(Gi) Upon request of the ~~f~~R respondent, LRAPA will provide the name of the version of the model used and respond to any reasonable request for information about the content or operation of the model. The model's standard values for income tax rates, inflation rate and discount rate are presumed to apply to all respondents unless a specific ~~f~~R respondent can demonstrate that the standard value does not reflect the ~~f~~R respondent's actual circumstance.

(Hii) LRAPA need not calculate EB if LRAPA makes a reasonable determination that the EB is de minimis or if there is insufficient information on which to make an estimate under this rule.

(iii) LRAPA may assess EB whether or not it assesses any other portion of the civil penalty using the formula in section 15-030.

(ivJ) LRAPA's calculation of EB may not result in a civil penalty for a violation that exceeds the maximum civil penalty allowed by rule or statute. However, when a violation has occurred or been repeated for more than one day, LRAPA may treat the violation as extending over at least as many days as necessary to recover the economic benefit of the violation.

(K) Regardless of any other penalty amount listed in this title, the ~~d~~D Director has the discretion to increase the penalty to \$25,000 per violation per day of violation based upon the facts and circumstances of the individual case.

(2) In addition to the factors listed in subsection (1), the Director may consider any other relevant rule of LRAPA and shall state the effect the consideration had on the penalty. On review, the Board or hearings officer shall consider the factors contained in subsection (1) and any other relevant rule of LRAPA.

(3) The Director or Board may reduce any penalty based on the Respondent's inability to pay the full penalty amount. If the Respondent seeks to reduce the penalty, the Respondent has the responsibility of providing to the Director or Board documentary evidence concerning Respondent's inability to pay the full penalty amount.

(a) When the Respondent is currently unable to pay the full amount, the first option should be to place the Respondent on a payment schedule with interest on the unpaid balance for any delayed payments. The Director or Board may reduce the penalty only after determining that the Respondent is unable to meet a long-term payment schedule.

(b) In determining the Respondent's ability to pay a civil penalty, LRAPA may use the U.S. Environmental Protection Agency ABEL computer model to determine a Respondent's ability to pay the full civil penalty amount. With respect to significant or

substantial change in the model, LRAPA shall use the version of the model that LRAPA finds will most accurately calculate the Respondent's ability to pay a civil penalty. Upon request of the Respondent, LRAPA will provide Respondent the name of the version of the model used and respond to any reasonable request for information about the content or operation of the model.

- (c) In appropriate circumstances, the Director or Board may impose a penalty that may result in a Respondent going out of business. Such circumstances may include situations where the violation is intentional or flagrant or situations where the Respondent's financial condition poses a serious concern regarding its ability or incentive to remain in compliance.

Section 15-035 Written Notice of Civil Penalty Assessment--When Penalty Payable

- (1) A civil penalty shall be due and payable 10 days after the order assessing the civil penalty becomes final and the civil penalty is thereby imposed by operation of law or on appeal. A person against whom a civil penalty is assessed shall be served with a notice in the form and manner provided in ORS 183.415 and section 14-170.
- (2) The written Notice of Civil Penalty Assessment shall comply with ORS 468.135(1) and ORS 183.090, relating to notice and contested case hearing applications, and shall state the amount of the penalty or penalties assessed.
- (3) The rules prescribing procedure in contested case proceedings contained in title 14 shall apply thereafter.

Section 15-040 Compromise or Settlement of Civil Penalty by Director

- (1) Any time after service of the written Notice of Civil Penalty Assessment, the Board or Director may, in their discretion, compromise or settle any unpaid civil penalty at any amount that the Board or Director deems appropriate. A refusal to compromise or settle shall not be subject to review. Any compromise or settlement executed by the Director shall be final, except for major Class I violations with penalties calculated under paragraph 15-025(1)(a), which must be approved by the Board.
- (2) In determining whether a penalty should be compromised or settled, the Board or Director may take into account the following:
 - (a) New information obtained through further investigation or provided by Respondent which relates to the penalty determination factors contained in section 15-030;
 - (b) The effect of compromise or settlement on deterrence;
 - (c) Whether Respondent has or is willing to employ extraordinary means to correct the violation or maintain compliance;
 - (d) Whether Respondent has had any previous penalties which have been compromised or settled;

- (e) Whether the compromise or settlement would be consistent with LRAPA's goal of protecting the public health and environment;
- (f) The relative strength or weakness of LRAPA's case.

Section 15-045 Stipulated Penalties

Nothing in title 15 shall affect the ability of the Board or Director to include stipulated penalties in a Stipulation and Final Order, Consent Order, Consent Decree or any other agreement issued ~~pursuant to~~ ORS Chapter 468, 468.A or these rules and regulations.

Section 15-050 Additional Civil Penalties

LRAPA may assess additional civil penalties for the following violations as specified below:

LRAPA may assess a civil penalty of up to \$250,000 to any person who intentionally or recklessly violates any provision of ORS 468, 468A, or any rule or standard or order of the Director or Board which results in or creates the imminent likelihood for an extreme hazard to public health or which causes extensive damage to the environment. When determining the civil penalty sum to be assessed under this section, the Director will use the procedures set out below:

- (1) The base penalties listed in subsection 15-050(2) are to be used in lieu of the penalty method in under paragraphs 15-025(1)(a) and (b).
- (2) The following base penalties apply:
 - (a) \$100,000 if the violation was caused intentionally;
 - (b) \$150,000 if the violation was caused recklessly;
 - (c) \$200,000 if the violation was caused flagrantly.
- (3) The civil penalty is calculated using the following formula:

$BP + (.1 \times BP)(P + H + O + C) + EB$, in accordance with the applicable subsections of section 15-030.

Section 15-055 Air Quality Classification of Violation

Violations pertaining to air quality shall be classified as follows:

- (1) Class I
 - (a) Violating a requirement or condition of EQC, DEQ or LRAPA, consent order, agreement, consent judgment (formerly called judicial consent decree), compliance schedule contained in a permit or permit attachment, or variance;

- (b) Submitting false, inaccurate or incomplete information to LRAPA where the submittal masked a violation, caused environmental harm, or caused LRAPA to misinterpret any substantive fact;
- (c) Failing to provide access to premises or records as required by statute, permit, order, consent order, agreement or consent judgment (formerly called judicial consent decree);
- (d) Using fraud or deceit to obtain LRAPA approval, permit, permit attachment, certification, or license;
- (e) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;
- ~~(f) Constructing a new source, as defined in OAR 340-245-0020, without first obtaining a required Air Contaminant Discharge Permit required under OAR 340-245-0005 through 340-245-8050 or without complying with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050;~~
- ~~(g) Failing to conduct a source risk assessment, as required under OAR 340-245-0050;~~
- ~~(h) Modifying a source in such a way as to require a permit modification under OAR 340-245-0005 through 340-245-8050, that would increase risk above permitted levels under OAR 340-245-0005 through 340-245-8050 without first obtaining such approval from LRAPA;~~
- (~~f~~i) Operating a major source, as defined in title 12, without first obtaining the required permit;
- ~~(j) Operating an existing source, as defined in OAR 340-245-0020, after a submittal deadline under OAR 340-245-0030 without having submitted a complete application for a Toxic Air Contaminant Permit Addendum required under OAR 340-245-0005 through 340-245-8050;~~
- (~~g~~k) Exceeding a Plant Site Emission Limit (PSEL);
- ~~(l) Exceeding a risk limit, including a Source Risk Limit, applicable to a source under OAR 340-245-0100;~~
- (~~h~~m) Failing to install control equipment or meet emission limits, operating limits, work practice requirements, or performance standards as require by New Source Performance Standards under title 46 or National Emission Standards for Hazardous Air Pollutant Standards under title 44;
- (~~i~~o) Exceeding a hazardous air pollutant emission limit;
- (~~j~~p) Failing to comply with an Emergency Action Plan;

- (~~kq~~) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard that was established ~~pursuant to~~ New Source Review/Prevention of Deterioration (NSR/PSD);
- (~~hr~~) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in title 12;
- (~~s~~) Exceeding an emission limit or violating an operational limit, process limit, or work practice requirement that was established to limit risk or emissions to avoid exceeding an applicable Risk Action Level or other requirement under OAR 340-245-0005 through 340-245-8050;
- (~~mt~~) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in title 12, when the violation was detected during a reference method stack test;
- (~~nu~~) Failing to perform testing or monitoring required by a permit, permit attachment, rule or order, that results in failure to show compliance with a Plant Site Emission Limit (PSEL), or with an emission limitation or performance standard set pursuant to established under New Source Review/Prevention of Significant Deterioration (NSR/PSD), National Emission Standards for Hazardous Air Pollutants (NESHAP), New Source Performance Standards (NSPS), Reasonably Available Control Technology (RACT), Best achievable Available Control Technology (BACT), Maximum Achievable Control Technology (MACT), Typically Achievable Control Technology (TACT), Lowest Achievable Emission Rate, (LAER) or adopted pursuant to section 111(d) of the Federal Clean Air Act;
- (~~ov~~) Causing emissions that are a hazard to public safety;
- (~~pw~~) Violating a work practice requirement for asbestos abatement projects;
- (~~qx~~) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;
- (~~ry~~) Conducting an asbestos abatement project by a person not licensed as an asbestos abatement contractor;
- (~~sz~~) Violating a title 43 disposal requirement for asbestos-containing waste material;
- (~~taa~~) Failing to hire a licensed contractor to conduct an asbestos abatement project;
- (~~ubb~~) Openly burning materials which are prohibited from being outdoor burned anywhere in Lane County, Oregon by paragraph 47-015(1)(e) or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1); or

~~(vcc)~~ Failing to install or use certified vapor recovery equipment.;

(2) Class II

- (a) Violating any otherwise unclassified requirement;
- (b) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP), ACDP Attachment, or registration without first obtaining such permit or registration, unless otherwise classified;
- (c) Violating the terms or conditions of a permit, permit attachment or license, unless otherwise classified;
- (d) Modifying a source in such a way as to require a permit or permit attachment modification from LRAPA without first obtaining such approval from LRAPA, unless otherwise classified;
- (e) Exceeding an opacity limit, unless otherwise classified;
- (f) Failing to timely submit a complete ACDP annual report or permit attachment annual report;
- (g) Failing to timely submit a certification, report, or plan as required by rule ~~or~~, permit or permit attachment, unless otherwise classified;
- (h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;
- ~~(i) Failing to submit a timely and complete air toxic contaminant emission inventory as required under OAR 340-245-0005 through 340-245-8050;~~
- ~~(j)~~ Failing to comply with the outdoor burning requirements for commercial, construction, demolition, or industrial wastes in violation of title 47;
- ~~(k)~~ Failing to comply with outdoor burning requirements in violation of any provision of title 47, unless otherwise classified or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2);
- ~~(l)~~ Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of Stage I or Stage II vapor collection system;
- ~~(m)~~ Failing to provide timely, accurate or complete notification of an asbestos abatement project; or
- ~~(n)~~ Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project.;

- (a) Failing to perform testing or monitoring required by a permit, permit attachment, rule or order where missing data can be reconstructed to show compliance with standards, emissions limitations or underlying requirements;
- (b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;
- (c) Modifying a source in such a way as to require construction approval from LRAPA without first obtaining such approval from LRAPA, unless otherwise classified;
- (d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified; or
- (e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project.

Section 15-057 Determination of Violation Magnitude

- (1) For each civil penalty assessed, the magnitude is moderate unless:
 - (a) A selected magnitude is specified in section 15-060 and information is reasonably available to LRAPA to determine the application of that selected magnitude; or
 - (b) LRAPA determines using information reasonably available to it, that the magnitude should be major under subsection (3) or minor under subsection (4).
- (2) If LRAPA determines, using information reasonably available to LRAPA, that the general or selected magnitude applies, LRAPA's determination is the presumed magnitude of the violation, but the person against whom the violation is alleged has the opportunity and the burden to prove that a magnitude under subsection (1), (3), or (4) is more probable than the alleged magnitude regardless of whether the magnitude is alleged under sections 15-057 or 15-060.
- (3) The magnitude of the violation is major if LRAPA finds that the violation had a significant adverse impact on human health or the environment. In making this finding, LRAPA will consider all reasonably available information, including, but not limited to: the degree of deviation from applicable statutes or EQC or DEQ and LRAPA rules standards, permits or orders; the extent of actual effects of the violation; the concentration, volume, or toxicity of the materials involved; and the duration of the violation. In making this finding, LRAPA may consider any single factor to be conclusive.
- (4) The magnitude of the violation is minor if LRAPA finds that the violation had no more than a de minimis adverse impact on human health or the environment, and posed no more than a de minimis threat to human health or the environment. In making this finding, LRAPA will consider all reasonably available information including, but not limited to: the degree of deviation from applicable statutes or commission or department of LRAPA rules, standards,

permits or orders; the extent of actual or threatened effects of the violation; the concentration volume, or toxicity of the materials involved; and the duration of the violation.

Section 15-060 Selected Magnitude Categories

Magnitudes for selected violations will be determined as follows:

- (1) Opacity limit violations:
 - (a) Major— opacity measurements or readings of 20 percent opacity or more over the applicable limit; or an opacity violation by a federal major source as defined in title 12;
 - (b) Moderate— opacity measurements or readings of greater than 10 percent opacity and less than 20 percent opacity over the applicable limit;
 - (c) Minor— opacity measurements or readings of 10 percent opacity or less opacity over the applicable limit.
- (2) Operating a major source, as defined in title 12, without first obtaining the required permit: Major – if a Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT) analysis shows that additional controls or offsets are or were needed, otherwise apply section 15-057.
- (3) Exceeding an emission limit established ~~pursuant to~~ New Source Review/Prevention of Significant Deterioration (NSR/PSD): Major – if exceeded the emission limit by more than 50 percent of the limit, otherwise apply section 15-057.
- ~~(4)~~ ~~(4)~~—Exceeding an emission limit established ~~pursuant to~~ federal National Emission Standards for Hazardous Air Pollutants (NESHAPs): Major – if exceeded the Maximum Achievable Control Technology (MACT) standard emission limit for a directly-measured hazardous air pollutant (HAP), otherwise apply section 15-057.
- ~~(5)~~ Exceeding a cancer or noncancer risk limit that is equivalent to a Risk Action Level or a Source Risk Limit if the limit is a Risk Action Level established under OAR 340-245-0005 through 340-245-8050: Major, otherwise apply section 15-057.
- ~~(5)~~ (6) Air contaminant emission limit violations for selected air pollutants: Magnitude determinations under this subsection shall be made based upon significant emission rate (SER) amounts listed in title 12 (Tables 2 and 3):
 - (a) Major:
 - (A) Exceeding the annual emission limit as established by permit, rule or order, by more than the annual SER; or
 - (B) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by more than the applicable short-term SER.

(b) Moderate:

- (A) Exceeding the annual emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the annual SER; or
- (B) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the applicable short-term SER.

(c) Minor:

- (A) Exceeding the annual emission limit as established by permit, rule or order by an amount less than 50 percent of the annual SER; or
- (B) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by an amount less than 50 percent of the applicable short-term SER.

(67) Violation of Emergency Action Plans: Major magnitude in all cases.

(78) Asbestos violations—These selected magnitudes apply unless the violation does not cause the potential for human exposure to asbestos fibers:

- (a) Major – more than 260 linear feet or more than 160 square feet asbestos-containing material or asbestos-containing waste material;
- (b) Moderate – from 40 linear feet up to and including 260 linear feet or from 80 square feet up to and including 160 square feet asbestos-containing material or asbestos-containing waste material;
- (c) Minor – less than 40 linear feet or 80 square feet of asbestos-containing material or asbestos-containing waste material;
- (d) The magnitude of the asbestos violation may be increased by one level if the material was comprised of more than 5 percent asbestos.

(89) Outdoor burning violations:

- (a) Major – Initiating or allowing the initiation of outdoor burning of 20 or more cubic yards of commercial, construction, demolition and/or industrial waste; or 5 or more cubic yards of prohibited materials (inclusive of tires); or 10 or more tires;
- (b) Moderate – Initiating or allowing the initiation of outdoor burning of 10 or more, but less than 20 cubic yards of commercial, construction, demolition and/or industrial waste; or 2 or more, but less than 5 cubic yards of prohibited materials (inclusive of tires); or 3 to 9 tires; or if LRAPA lacks sufficient information upon which to make a determination of the type of waste, number of cubic yards or number of tires burned;

- (c) Minor – Initiating or allowing the initiation of outdoor burning —of— less than 10 cubic yards of commercial, construction, demolition and/or industrial waste; or less than 2 cubic yards of prohibited materials (inclusive of tires); or 2 or less tires;
- (d) The selected magnitude may be increased one level if LRAPA finds that one or more of the following are true or decreased one level if LRAPA finds that none of the following are true:
 - (A) The burning took place in an outdoor burning control area;
 - (B) The burning took place in an area where outdoor burning is prohibited;
 - (C) The burning took place in a non-attainment or maintenance area for PM₁₀ or PM_{2.5}; or
 - (D) The burning took place on a day when all outdoor burning was prohibited due to meteorological conditions.

Section 15-065 Appeals

- (1) Any person who is issued a corrective action order or who is assessed with a civil penalty under title 15 may appeal such order or penalty to LRAPA within 21 days of the date of mailing of the notice. The hearing and appeal shall be conducted according to title 14 of these rules.
- (2) In reviewing the order or the penalty assessed by the Director, the Hearings Officer shall consider the factors set forth in section 15-030, the findings of the Director and the evidence and argument presented at the hearing. The Hearings Officer shall make findings as to those factors deemed to be significant.
- (3) Unless the issue is raised in Respondent's answer to the order or notice of assessment of civil penalty, the Hearings Officer may presume that the economic and financial conditions of Respondent would allow imposition of the penalty assessed by the Director. At the hearing, the burden of proof and the burden of coming forward with evidence regarding the Respondent's economic and financial condition shall be upon the Respondent.
- (4) If a timely request for a hearing is not received by LRAPA, the Director may issue a final order upon default based upon a prima facie case as provided in paragraph 14-175(4)(c) and subsection 14-205(2). If the penalty is not paid within 10 days of issuance of the final order, the order shall constitute a judgment and may be filed as provided in ORS 468.135(4).

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 31

PUBLIC PARTICIPATION

Section 31-0010 Purpose

The purpose of this title is to specify the requirements for notifying the public of certain permit actions and providing an opportunity for the public to participate in those permit actions.

Section 31-0020 Applicability

This title applies to permit actions requiring public notice as specified in OAR 340 division 218, 245, and LRAPA title 37.

Section 31-0030 Public Notice Categories and Timing

- (1) LRAPA categorizes permit actions according to potential environmental and public health significance and the degree to which LRAPA has discretion for implementing the applicable regulations. Category I is for permit actions with low environmental and public health significance so they have less public notice and opportunity for public participation. Category IV is for permit actions with potentially high environmental and public health significance so they have the greatest level of public notice and opportunity for participation.
- (2) Permit actions are assigned to specific categories in OAR 340, division 218, 245 and LRAPA title 37. If a permit action is uncategorized, the permit action will be processed under Category III.
- (3) The following describes the public notice or participation requirements for each category:
 - (a) Category I -- No prior public notice or opportunity for participation. However, LRAPA will maintain a list of all permit actions processed under Category I and make the list available for public review.
 - (b) Category II -- LRAPA will provide public notice of the proposed permit action and a minimum of 30 days to submit written comments.
 - (c) Category III -- LRAPA will provide public notice of the proposed permit action and a minimum of 35 days to submit written comments. LRAPA will provide a minimum of 30 days notice for a hearing, if one is scheduled. LRAPA will schedule a hearing at a reasonable time and place to allow interested persons to submit oral or written comments if:
 - (A) LRAPA determines that a hearing is necessary; or

- (B) Within 35 days of the mailing of the public notice, LRAPA receives written requests from ten persons, or from an organization representing at least ten persons, for a hearing.
- (d) Category IV -- Once an application is considered complete under 37-0040, LRAPA will:
 - (A) Provide notice of the completed application and requested permit action; and
 - (B) Schedule an informational meeting within the community where the facility will be or is located and provide public notice at least 14 days before the meeting. During the meeting, LRAPA will describe the requested permit action and accept comments from the public. LRAPA will consider any information gathered in this process in its drafting of the proposed permit, but will not maintain an official record of the meeting and will not provide a written response to the comments;
 - (C) Once a draft permit is completed, provide public notice of the proposed permit and a minimum of 40 days to submit written comments; and
 - (D) Schedule a public hearing at a reasonable time and place to allow interested persons to submit oral or written comments and provide a minimum of 30 days public notice for the hearing.
- (4) Except for actions regarding LRAPA Title V Operating Permits, LRAPA may move a permit action to a higher category under subsection (3) based on, but not limited to the following factors:
 - (a) Anticipated public interest in the facility;
 - (b) Compliance and enforcement history of the facility or owner;
 - (c) Potential for significant environmental or public harm due to location or type of facility; or
 - (d) Federal requirements.

Section 31-0040 Public Notice Information

- (1) The following information is required in public notices or included in a web link from the public notice for all proposed ACDP ~~and~~, draft LRAPA Title V Operating Permit actions, and Toxic Air Contaminant Permit Addenda(s) issued under division 245. except for General Permit actions:
 - (a) Name of applicant and location of the facility;

- (b) Type of facility, including a description of the facility's processes subject to the permit;
- (c) Description of the air contaminant emissions including, the type of regulated pollutants, quantity of emissions, and any decreases or increases since the last permit action for the facility;
- (d) Location and description of documents relied upon in preparing the draft permit;
- (e) Other permits required by LRAPA;
- (f) Date of previous permit actions;
- (g) Opportunity for public comment and a brief description of the comment procedures, whether in writing or in person, including the procedures for requesting a hearing (unless a hearing has already been scheduled or is not an option for the Public Notice category);
- (h) Compliance, enforcement, and complaint history along with resolution of the same;
- (i) A summary of the discretionary decisions made by LRAPA in drafting the permit;
- (j) Type and duration of the proposed or draft permit action;
- (k) Basis of need for the proposed or draft permit action;
- (l) Any special conditions imposed in the proposed or draft permit action;
- (m) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment/unclassified, sustainment, non-attainment, reattainment or maintenance for that pollutant;
- (n) If the proposed permit action is for a federal major source, whether the proposed permitted emission would have a significant impact on a Class I airshed;
- (o) If the proposed permit action is for a major source for which dispersion modeling has been performed, an indication of what impact each proposed permitted emission would have on the ambient air quality standard and PSD increment consumption within an attainment area;
- (p) Other available information relevant to the permitting action;
- (q) The name and address of LRAPA office processing the permit;
- (r) The name, address, and telephone number and e-mail address of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report,

except for information that is exempt from disclosure, and all other materials available to LRAPA that are relevant to the permit decision; ~~and~~

(s) If applicable, a statement that an enhanced NSR process, under LRAPA title 38, including the external review procedures required under OAR 340-218-0210 and 340-218-0230, is being used to allow for subsequent incorporation of the operating approval into an LRAPA Title V Operating Permit as an administrative amendment.; and

(t) For Toxic Air Contaminant Permit Addenda and ACDPs that include conditions consistent with OAR 340, division 245, a list of estimated toxic air contaminant emissions and, if applicable, a summary of the results of any risk assessment.

- (2) General Permit Actions. The following information is required for General ACDP and General LRAPA Title V Operating Permit actions:
- (a) The name and address of potential or actual facilities assigned to the General Permit;
 - (b) Type of facility, including a description of the facility's process subject to the permit;
 - (c) Description of the air contaminant emissions including, the type of pollutants, quantity of emissions, and any decreases or increases since the last permit action for the potential or actual facilities assigned to the permit;
 - (d) Location and description of documents relied upon in preparing the draft permit;
 - (e) Other permits required by LRAPA;
 - (f) Date of previous permit actions;
 - (g) Opportunity for public comment and a brief description of the comment procedures, whether in writing or in person, including the procedures for requesting a hearing (unless a hearing has already been scheduled or is not an option for the Public Notice category)
 - (h) Compliance, enforcement, and complaint history along with resolution of the same;
 - (i) A summary of the discretionary decisions made by LRAPA in drafting the permit;
 - (j) Type and duration of the proposed or draft permit action;
 - (k) Basis of need for the proposed or draft permit action;
 - (l) Any special conditions imposed in the proposed or draft permit action;

- (m) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the sources are located are designated as attainment or nonattainment for that pollutant;
- (n) If the proposed permit action is for a federal major source, whether the proposed permitted emission would have a significant impact on a Class I airshed;
- (o) Other available information relevant to the permitting action; and
- (p) The name, address, and telephone number and e-mail address of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report, except for information that is exempt from disclosure, and all other materials available to LRAPA that are relevant to the permit decision.

Section 31-0050 Public Notice Procedures

- (1) All notices. LRAPA will mail or e-mail a notice of proposed permit actions to the persons identified in 31-0060.
- (2) NSR, LRAPA Title V Operating Permit and General ACDP actions. In addition to subsection (1), LRAPA will provide notice of NSR, LRAPA Title V Operating Permit and General ACDP actions as follows:
 - (a) On the LRAPA website and/or will be located, electronic noticing (termed e-notice), or LRAPA publication designed to give general public notice; and
 - (b) Other means, if necessary, to assure adequate notice to the affected public.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 37

AIR CONTAMINANT DISCHARGE PERMITS

Section 37-0010 Purpose

This title prescribes the requirements and procedures for obtaining Air Contaminant Discharge Permits (ACDPs) ~~pursuant to~~ under ORS 468A.040 through 468A.060 and related statutes for sources of air contaminants.

Section 37-0020 Applicability and Jurisdiction

- (1) This title applies to all sources referred to in 37-8010 Table 1. This title also applies to Oregon Title V Operating Permit program sources when an ACDP is required by OAR 340-218-0020 or 38-0010. Sources referred to in 37-8010 Table 1 are subject to fees set forth in 37-8020 Table 2.
- (2) Sources in any one of the categories in 37-8010 Table 1 (Table 1) must obtain a permit. If a source meets the requirements of more than one of the source categories and the source is not eligible for a Basic ACDP or a General ACDP that has been authorized by LRAPA, then the source must obtain a Simple or Standard ACDP. Source categories are not listed in alphabetical order.
 - (a) The commercial and industrial sources in Table 1, Part A must obtain a Basic ACDP under 37-0056 unless the source chooses to obtain a General, Simple or Standard ACDP. For purposes of 37-8010 Table 1, Part A, production and emission parameters are based on the latest consecutive 12 month period, or future projected operation, whichever is higher. Emission cutoffs are based on actual emissions.
 - (b) Sources in any one of the categories in Table 1, Part B must obtain one of the following unless otherwise allowed in Table 1, Part B:
 - (A) A General ACDP, if one is available for the source classification and the source qualifies for a General ACDP under 37-0060;
 - (B) A Simple ACDP under 37-0064; or
 - (C) A Standard ACDP under 37-0066 if the source fits one of the criteria of Table 1, Part C or does not qualify for a Simple ACDP.

- (c) Sources in any one of the categories in Table 1, Part C must obtain a Standard ACDP under the procedures set forth in 37-0066.
- (3) No person may construct, install, establish, develop or operate any air contaminant source which is listed in 37-8010 Table 1 without first obtaining an Air Contaminant Discharge Permit (ACDP) from DEQ or LRAPA and keeping a copy onsite at all times, unless otherwise deferred from the requirement to obtain an ACDP in paragraph (3)(b) or LRAPA has granted an exemption from the requirement to obtain an ACDP under paragraph (3)(e). No person may continue to operate an air contaminant source if the ACDP expires, or is terminated, denied, or revoked; except as provided in 37-0082.
- (a) For portable sources, a single permit may be issued for operating at any area of the state if the permit includes the requirements from both DEQ and LRAPA. DEQ or LRAPA, depending where the portable source's corporate offices are located, will be responsible for issuing the permit. If the corporate office of a portable source is located outside of the state, DEQ will be responsible for issuing the permit, unless the source applies initially to be permitted to operate only in Lane County, then LRAPA will be responsible for issuing the permit.
- (b) An air contaminant source required to obtain an ACDP or ACDP Attachment ~~pursuant to~~ under a NESHAP under title 44 or NSPS under title 46 is not required to submit an application for an ACDP or ACDP Attachment until four months after the effective date of the LRAPA Board's adoption of the NESHAP or NSPS, and is not required to obtain an ACDP or ACDP Attachment until six months after the LRAPA Board's adoption of the NESHAP or NSPS. In addition, LRAPA may defer the requirement to submit an application for, or to obtain an ACDP or ACDP Attachment, or both, for up to an additional twelve months.
- (c) Deferrals of LRAPA and/or DEQ permitting requirements do not relieve an air contaminant source from the responsibility of complying with the federal NESHAP or NSPS requirements.
- (d) 37-0060(1)(b)(A), 37-0062(2)(b)(A), 37-0064(4)(a), and 37-0066(3)(a), do not relieve a permittee from the responsibility of complying with federal NESHAP or NSPS requirements that apply to the source even if LRAPA has not incorporated such requirements into the permit.
- (e) LRAPA may exempt a source from the requirement to obtain an ACDP if it determines that the source is subject to only procedural requirements, such as notification that the source is affected by an NSPS or NESHAP.
- (4) No person may construct, install, establish, or develop any source that will be subject to the Oregon Title V Operating Permit program without first obtaining an ACDP from LRAPA.
- (5) No person may modify any source that has been issued an ACDP without first complying with the requirements of 34-010 and 34-035 through 34-038.

- (6) No person may modify any source required to have an ACDP such that the source becomes subject to the Oregon Title V Operating Permit program without complying with the requirements of 34-010 and 34-035 through 34-038.
- (7) No person may increase emissions above the PSEL by more than the de minimis levels specified in LRAPA title 12 without first applying for and obtaining a modified ACDP.

Section 37-0030 Definitions

The definitions in title 12, 29-0010, OAR 340-245-0020 and this section apply to this title. If the same term is defined in this section and title 12, or OAR 340-245-0020, the definition in this section applies to this title.

- (1) "Basic technical modification" includes, but is not limited to changing source test dates if the equipment is not being operated, and similar changes.
- (2) "Complex technical modification" includes, but is not limited to incorporating a complex new compliance method into a permit, adding a complex compliance method or monitoring for an emission point or control device not previously addressed in a permit, adding a complex new applicable requirement into a permit due to a change in process or change in rules, and similar changes.
- (3) "Moderate technical modification" includes, but is not limited to adding a simple compliance method or monitoring for an emission point or control device not previously addressed in a permit, revising monitoring and reporting requirements other than dates and frequency, adding a new applicable requirement into a permit due to a change in process or change in rules, incorporating NSPS and NESHAP requirements, and similar changes.
- (4) "Non-technical modification" means name changes, change of ownership, correction of typographical errors and similar administrative changes.
- (5) "Simple technical modification" includes, but is not limited to modifying a compliance method to use different emission factors or process parameters, changing reporting dates or frequency, and similar changes.

Section 37-0040 Application Requirements

- (1) New Permits.
 - (a) Except for Short Term Activity ACDPs, any person required to obtain a new ACDP must provide the following general information, as applicable, using forms provided by LRAPA in addition to any other information required for a specific permit type:
 - (A) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business, Standard Industrial Classification (SIC) code;

- (B) The name and phone number of a local person responsible for compliance with the permit;
 - (C) The name of a person authorized to receive requests for data and information;
 - (D) A description of the production processes and related flow chart;
 - (E) A plot plan showing the location and height of air contaminant sources. The plot plan must also indicate the nearest residential or commercial property;
 - (F) The type and quantity of fuels used;
 - (G) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, or monthly and yearly rates, showing calculation procedures;
 - (H) Any information on pollution prevention measures and cross-media impacts the applicant wants LRAPA to consider in determining applicable control requirements and evaluating compliance methods;
 - (I) Estimated efficiency of air pollution control devices under present or anticipated operating conditions;
 - (J) Where the operation or maintenance of air pollution control devices and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for LRAPA to establish operational and maintenance requirements in accordance with 32-0120(1) and (2);
 - (K) A Land Use Compatibility Statement signed by a local, city, or county planner either approving or disapproving construction or modification of the source, if required by the local planning agency;
 - (L) Any information required by titles 38 and 40, and OAR 340 division 245, including but not limited to control technology and analysis, air quality impact analysis; and information related to offsets and net air quality benefit, if applicable; and
 - (M) Any other information requested by LRAPA.
- (b) Applications for new permits must be submitted at least 60 days prior to when a permit is needed. When preparing an application, the applicant ~~should~~must also consider the timelines provided in paragraph (2)(b), as well as OAR 340-245-0030, Cleaner Air Oregon submittal and payment deadlines, and 38-0030, permit applications subject to NSR, to allow LRAPA adequate time to process the application and issue a permit before it is needed.

- (2) Renewal Permits. Except for Short Term Activity ACDPs, any person required to renew an existing permit must submit the information identified in subsection (1) using forms provided by LRAPA, unless there are no significant changes to the permit. If there are significant changes, the applicant must provide the information identified in subsection (1) only for those changes.
 - (a) Where there are no significant changes to the permit, the applicant may use a streamlined permit renewal application process by providing the following information:
 - (A) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business, Standard Industrial Classification (SIC) code, using a form provided by LRAPA; and
 - (B) A marked up copy of the previous permit indicating minor changes along with an explanation for each requested change.
 - (b) The owner or operator must submit an application for renewal of the existing permit by no later than:
 - (A) 30 days prior to the expiration date of a Basic ACDP;
 - (B) 120 days prior to the expiration date of a Simple ACDP; or
 - (C) 180 days prior to the expiration date of a Standard ACDP.
 - (c) LRAPA must receive an application for reassignment to General ACDPs and attachments within 30 days prior to expiration of the General ACDPs or attachment.
- (3) Permit Modifications. For Simple and Standard ACDP modifications, the applicant must provide the information in subsection (1) relevant to the requested changes to the permit and a list of any new requirements applicable to those changes. When preparing an application, the applicant ~~should~~must also consider the timelines provided in paragraph (2)(b), as well as 38-0030, permit applications subject to NSR, to allow LRAPA adequate time to process the application and issue a permit before it is needed.
- (4) Any owner or operator who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.
- (5) The application must be completed in full and signed by the applicant or the applicant's legally authorized representative.
- (6) Two copies of the application are required, unless otherwise requested by LRAPA. At least one of the copies must be a paper copy, but the others may be in any other format, including electronic copies, upon approval by LRAPA.

- (7) A copy of permit applications subject to Major NSR under title 38, including all supplemental and supporting information, must also be submitted directly to the EPA.
- (8) The name of the applicant must be the legal name of the facility or the owner's agent or the lessee responsible for the operation and maintenance of the facility. The legal name must be registered with the Secretary of State Corporations Division.
- (9) Once an application is deemed complete by LRAPA, all applications must submit the appropriate fees invoiced by LRAPA as specified in Table 2 of 37-8020.
- (10) Applications that are obviously incomplete, unsigned, improperly signed, or lacking the required exhibits or fees will be rejected by LRAPA and returned to the applicant for completion.
- (11) Within 15 days after receiving the application, LRAPA will preliminarily review the application to determine the adequacy of the information submitted:
 - (a) If LRAPA determines that additional information is needed, LRAPA will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request;
 - (b) If, in the opinion of LRAPA, additional measures are necessary to gather facts regarding the application, LRAPA will notify the applicant that such measures will be instituted along with the timetable and procedures to be followed. The application will not be considered complete for processing until the necessary additional fact-finding measures are completed. When the information in the application is deemed adequate for processing, LRAPA will so notify the applicant.
- (12) If at any time while processing the application, LRAPA determines that additional information is needed, LRAPA will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request.
- (13) If, upon review of an application, LRAPA determines that a permit is not required, LRAPA will so notify the applicant in writing. Such notification is a final action by LRAPA on the application.

Section 37-0069 Toxic Air Contaminant Permit Addendums

- (1) Purpose and intent. LRAPA may implement requirements pertaining to toxic air contaminants under OAR 340 division 245 as follows:

- (a) For new sources required to obtain a Standard or Simple ACDP, by including conditions in the source's ACDP to ensure compliance with the Cleaner Air Oregon rules, OAR chapter 340, division 245;

 - (b) For new sources required to obtain a Basic or General ACDP, by including conditions in an addendum to the source's ACDP to ensure compliance with the Cleaner Air Oregon rules, OAR chapter 340, division 245; and

 - (c) For existing sources, by requiring the owner or operator of the sources to obtain a Toxic Air Contaminant Permit Addendum under OAR chapter 340, division 245 that amends the source's ACDP.
- (2) A Toxic Air Contaminant Permit Addendum will be incorporated into a source's ACDP upon renewal or modification that involves a public notice for which LRAPA has followed the Category II or Category III public notice procedure in title 31, except for sources that have Basic or General ACDPs.
- (3) Section 37-0062 and 37-0068 do not apply to Toxic Air Contaminant Permit Addenda.

Section 37-0090 Sources Subject to ACDPs and Fees

(1) All air contaminant discharge sources listed in Table 1 37-8010 must obtain a permit from LRAPA and are subject to fees as set forth in Table 2 37-8020.

(2) An owner or operator of a source that is required to demonstrate compliance with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050 must pay the fees specified in Table 3, Section 37-8030.

(43) The fees in Table 2, Section 37-8020, Parts 1, 2 and 4 will increase by four (4) percent on July 1 of each year.

LANE REGIONAL AIR PROTECTION AGENCY

TABLE 2 - SECTION 37-8020

AIR CONTAMINANT DISCHARGE PERMIT

Part 1. Initial Permitting Application Fees: (in addition to first annual fee)

a. Short Term Activity ACDP	\$3,979
b. Basic ACDP	\$159
c. Assignment to General ACDP*	\$1,591
d. Simple ACDP	\$7,958
e. Construction ACDP	\$12,733
f. Standard ACDP	\$15,915
g. Standard ACDP (Major NSR or Type A State NSR)	\$55,702

*LRAPA may waive the assignment fee for an existing source requesting to be assigned to a General ACDP because the source is subject to a newly adopted area source NESHAP as long as the existing source requests assignment within 90 days of notification by LRAPA.

Part 2. Annual Fees: (Due date 12/1* for 1/1 to 12/31 of the following year)

a. Short Term Activity ACDP	\$ NA
b. Basic ACDP	\$ 478
c. General ACDP	
(A) Fee Class One	\$955
(B) Fee Class Two	\$1,720
(C) Fee Class Three	\$2,484
(D) Fee Class Four	\$478
(E) Fee Class Five	\$159
(F) Fee Class Six	\$324
(G) Attachment	\$159
d. Simple ACDP	
(A) Low Fee	\$2,546
(B) High Fee	\$5,093
e. Standard ACDP	\$10,186

f. Greenhouse Gas reporting, as required by OAR 340, Division 215	12.5% of the applicable annual fee in Part 2
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* LRAPA may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.

Part 3. Cleaner Air Oregon Annual Fees: (Due date 12/1 for 1/1 to 12/31 of the following year)

a. Basic ACDP	\$ 151
b. General ACDP	
(A) Fee Class One	\$302
(B) Fee Class Two	\$544
(C) Fee Class Three	\$786
(D) Fee Class Four	\$151
(E) Fee Class Five	\$50
(F) Fee Class Six	\$100
d. Simple ACDP	
(A) Low Fee	\$806
(B) High Fee	\$1,612
e. Standard ACDP	\$3,225

* LRAPA may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.

Part 4. Specific Activity Fees:

a. Non-Technical Permit Modification	\$159
b. Non-PSD/NSR Basic Technical Permit Modification	\$478
c. Non-PSD/NSR Simple Technical Permit Modification	\$1,591
d. Non-PSD/NSR Moderate Technical Permit Modification	\$7,958
e. Non-PSD/NSR Complex Technical Permit Modification	\$15,915
f. Major NSR or Type A State NSR Permit Modification	\$55,702
g. Modeling Review (outside Major NSR or Type A State NSR)	\$7,958
h. Public Hearing at Source's Request	\$3,183
i. LRAPA MACT Determination	\$7,958
j. Compliance Order Monitoring ¹	\$159/month
1. This is a one-time fee payable when a compliance order is established in a permit or an LRAPA order containing a compliance schedule becomes a final order of LRAPA and is based on the number of months LRAPA will have to oversee the order.	

Part 45. Late Fees:

- a. 8-30 days late 5%
- b. 31-60 days late 10%
- c. 61 or more days late 20%

Part 56. Specific Registration Fees:

1. Gasoline Dispensing Facilities subject to area source NESHAPs not required to otherwise obtain an LRAPA permit must pay a one-time registration fee of \$41.
2. Motor vehicle surface coating operations registered pursuant to under 34-025 must pay \$275 per year.
3. Dry cleaners using perchloroethylene registered pursuant to under 34-025 must pay \$206 per year.

LANE REGIONAL AIR PROTECTION AGENCY

TABLE 3 - SECTION 37-8030

CLEANER AIR OREGON SPECIFIC ACTIVITY FEES

LRAPA sources subject to OAR Chapter 340 division 245, Cleaner Air Oregon, are required to pay the specific activity fees in Table 3.

#	ACTIVITY	Permit Type			
		Title V	Standard ACDP	Simple ACDP	General Basic ACDP
1	Existing Source Call-In Fee	\$10,000	\$10,000	\$1,000	\$500
2	New Source Consulting Fee	\$12,000	\$12,000	\$1,900	\$1,000
3	Document Modification Fee	\$2,500	\$2,500	\$500	\$250
Risk Below Risk Action Levels					
4	Level 1 Risk Assessment - de minimis (no permit amendment required)	\$1,500	\$1,500	\$1,000	\$800
5	Level 1 Risk Assessment - permit amendment required	\$2,000	\$2,000	\$1,500	\$1,100
6	Level 2 Risk Assessment - de minimis (no permit amendment required)	\$3,100	\$3,100	\$2,300	\$2,000
7	Level 2 Risk Assessment - permit amendment required	\$3,600	\$3,600	\$2,800	\$2,300
8	Level 3 Risk Assessment - de minimis (no permit amendment required)	\$8,800	\$8,200	\$5,300	\$4,500
9	Level 3 Risk Assessment - permit amendment required	\$19,900	\$11,300	\$7,700	\$6,300
10	Level 4 Risk Assessment - de minimis (no permit amendment required)	\$21,400	\$18,500	\$11,700	NA
11	Level 4 Risk Assessment - permit amendment required	\$34,600	\$25,800	\$15,500	NA
Risk Above Risk Action Levels					
12	Risk Reduction Plan Fee	\$6,700	\$6,700	\$2,600	\$2,600
13	Cleaner Air Oregon Monitoring Plan Fee (includes risk assessment)	\$25,900	\$25,900	NA	NA
14	Postponement of Risk Reduction Fee	\$4,400	\$4,400	\$4,400	\$2,000

15	TBACT/TLAER Review (per Toxic Emissions Unit)	\$3,000	\$3,000	\$1,500	\$1,500
Other Fees					
16	TEU Risk Assessment – no permit amendment mod	\$1,000	\$1,000	\$500	\$500
17	TEU Risk Assessment – permit amendment mod	\$4,000	\$4,000	\$2,000	\$1,000
18	Level 2 Modeling review only for TEU approval	\$1,900	\$1,300	\$800	\$700
19	Level 3 Modeling review only for TEU approval	\$3,800	\$3,800	\$3,500	\$3,500
20	Community Engagement Meeting Fee	\$8,000	\$8,000	\$8,000	\$8,000
21	Source Test Review Fee (plan and data review) - complex	\$6,000	\$6,000	\$6,000	\$6,000
22	Source Test Review Fee (plan and data review) – moderate	\$4,200	\$4,200	\$4,200	\$4,200
23	Source Test Review Fee (plan and data review) - simple	\$1,400	\$1,400	\$1,400	\$1,400



Draft Rules – Edits Highlighted

Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

DEPARTMENT OF ENVIRONMENTAL QUALITY

Division 200

GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

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 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 by the EQC on ~~January 24~~ May 16, 2019.

(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 468.020 & 468A

Statutes/Other Implemented: ORS 468A.035 & 468A.135



Oregon

Kate Brown, Governor

Department of Environmental Quality

Operations Division

700 NE Multnomah Street, Suite 600

Portland, OR 97232

(503) 229-5696

FAX (503) 229-5675

TTY 711

Jan. 7, 2019

Merlyn Hough, Director
Lane Regional Air Protection Agency
1010 Main Street
Springfield, OR 97477


RE: Proposed Amendments to LRAPA Rules Regarding Cleaner Air Oregon

Dear Mr. Hough: *Merlyn*

DEQ has reviewed the proposed amendments to the LRAPA rules regarding Cleaner Air Oregon that were received Dec. 18, 2018. We find the proposed rules to be at least as stringent as the comparable rules previously developed and adopted by DEQ.

We hereby authorize LRAPA to act as Hearings Officer on behalf of the Environmental Quality Commission for public comment on these rule amendments, including the proposal to amend OAR 340-200-0040 to incorporate relevant portions of these rule amendments as modifications to Oregon's State Implementation Plan. If you have any questions, please call Jill Inahara at 503-229-5001 or Emil Hnidey at 503-229-5946.

Sincerely,


Ali Mirzakhali
Air Quality Division Administrator
Oregon Department of Environmental Quality