Lane Regional Air Protection Agency (LRAPA)
Rulemaking Hearing and Proposed Adoption
March 14, 2019
Board of Director's meeting
Agency Staff Report
Staff Report - Rulemaking Action Item

LRAPA Cleaner Air Oregon

Table of Contents

Overview

Short summary

LRAPA proposes to implement the Cleaner Air Oregon (CAO) program and rules under the authority provided to the Agency in OAR 340 division 245, with proposed amendments for related rules, to add public health-based protection from emissions of industrial toxic air contaminants to the Lane County's existing air permitting regulatory framework. In April 2016, Governor Brown directed the DEQ and the Oregon Health Authority (OHA) to develop a health risk-based toxic air contaminant permitting program. The goal of the Cleaner Air Oregon program is to evaluate potential health risks to people near commercial and industrial facilities that emit regulated toxic air contaminants, communicate those results to affected communities, and ultimately reduce those risks below health-based standards. Affected facilities could include some that are not currently permitted for their air contaminant emissions, in addition to those that already have air quality permits. But, only facilities that are required to have an air permit due to other regulations would potentially have to reduce their risk under Cleaner Air Oregon.

Cleaner Air Oregon regulations were adopted by the Environmental Quality Commission (EQC) on November 15, 2018, and LRAPA is required to apply the requirements and procedures contained in the state rules, within Lane County. LRAPA may apply any LRAPA rule in lieu of the state rule(s), provided that the LRAPA rule is at least as strict as the state rule(s) as determined by EQC (see OAR 340-200-0010(3)). For a variety of reasons, including the scope, technical detail and expertise that went into the creation of the rules in division 245, LRAPA plans to rely on the authority provided to the Agency in OAR 340 division 245 – Cleaner Air Oregon to implement the rules in Lane County without any changes (see OAR 340-245-0010(3)). DEQ has reviewed the draft rules, determined they were at least as stringent as state rules, and authorized LRAPA to hold a hearing on behalf of the EQC. EPA has also reviewed the draft rules and provided comments.

LRAPA is proposing several changes to existing rules to integrate Cleaner Air Oregon rules with existing program rules. Some of the proposed changes to existing rules would amend the LRAPA's part of the Oregon Clean Air Act State Implementation Plan. Please see the Rules affected, authorities, and supporting documents section of this report for more detail on these proposed changes.

The Cleaner Air Oregon program will use facility toxic air contaminant risk assessments for the implementation of the program. Facility toxic air contaminant risk assessments will rely on emissions data specific to, and provided by, each facility. Facilities will be required to calculate and report estimated risks posed by their emissions where people are be exposed. Regulatory actions are triggered when the risk posed by a facility's emissions exceed specified Risk Action Levels. Risk Action Levels are proposed for new, reconstructed, and existing facilities. Different Risk Action Levels trigger different actions: requirements for community engagement, measures

to reduce risk, or a demonstration that the facility has already incorporated all feasible measures to reduce risk.

If risk reductions are required under the Cleaner Air Oregon proposed rules, facilities have flexibility in how they reduce emissions. Options include installing emission controls, incorporating pollution prevention, substituting less-hazardous materials for more-hazardous materials, or altering work practices. If risk from a facility's emissions is already below defined Risk Action Levels, the facility generally will only be required to report periodically on its emissions. If a facility has demonstrated it uses all the feasible emission reduction measures it can, the proposed regulations would allow LRAPA to approve continued operation at higher Risk Action Levels with periodic review for newly available technology or controls. The proposed regulations would prohibit operation of facilities whose emissions pose risks that exceed an upper risk limit.

Outreach efforts and public and stakeholder involvement

DEQ began developing the proposed Cleaner Air Oregon rules in 2016 with support from OHA, along with particiapation by LRAPA, and held a public comment period on an earlier draft of the proposed rules in fall/winter 2017. In March 2018 the Oregon Legislature passed Senate Bill 1541, a law that provided funding for completing the rulemaking and beginning program implementation through fees on industrial permit holders. The bill also established certain program requirements that must be reflected in the rules. The rules were updated as a result of the earlier public comments and SB 1541, and DEQ held a second public comment period in summer 2018, including a hearing in Eugene on August 1, 2018.

The adopted DEQ rule considered comments received in both 2017 and 2018 public comment periods, including eleven in-person hearings statewide. During the 2017 and 2018 comment periods, DEQ received 931 comments from 4,243 commenters on a total of 410 discrete comment categories. In addition to public comment, DEQ considered extensive input from a Technical Work Group, and a Rules Advisory Committee that also served as a Fiscal Advisory Committee.

LRAPA's Board, Citizen's Advisory Committee, and interested parties received periodic updates on the DEQ rulemaking throughout the process. Much of this staff report includes information about the already-adopted Cleaner Air Oregon rules, but also includes information about the rules LRAPA proposes as part of changes to exising titles to integrate the new toxics program.

Regulated parties

The Cleaner Air Oregon program and rules apply to all commercial and industrial facilities that emit toxic air contaminants. These sources are required to submit toxic air contaminant facility risk assessments if requested by LRAPA. In compliance with SB 1541, only sources that are otherwise required to have an air permit will be required to obtain a Toxic Air Contaminant

Permit Addendum if LRAPA requests their emissions data and determines that the facility poses risk above the Source Permit Level.

The new air toxics program and rules are designed to evaluate potential risks to people near facilities that emit regulated toxic air contaminants, and ultimately reduce those risks to health protective levels. In developing the program, DEQ and OHA considered numerous options that were informed by other states' risk-based toxic air contaminant permitting programs. In addition, the agencies discussed options with a Technical Work Group and Rules Advisory Committee and considered comments and recommendations from committee members. Several members of the Rules Advisory Committee were representing, at least in part, Lane County view points and interests. LRAPA staff regularly participated in the DEQ and OHA rule team meetings. During the public comment period, DEQ requested input on the broad scope of the rules as well as lists of specific options for particular policy issues. Lane County residents, advocacy groups, businesses and their representatives commented on the rules.

Terms used in this document

- "Toxic Air Contaminants" are air pollutants that have been determined by the commission to cause or reasonably be anticipated to cause adverse effects to human health.
- "Existing source" means a source that commenced construction or submitted complete applications for a permit before the date the rules become effective.
- "New source" means a source that is proposed or constructed on or after the date the rules become effective.
- "Reconstructed source" means a source where an individual project is constructed that, once constructed, increases the hourly capacity of any changed equipment to emit and where the fixed capital cost of new components exceeds 50 percent of the fixed capital cost that would have been required to construct a comparable entirely new source.
- "Risk Action Level" means cancer and noncancer health risk levels that trigger regulatory requirements.
- "Risk Assessment" refers to the process of calculating the health risk created by the toxic air contaminant emissions from a source. The rules include four "levels" of risk assessment in OAR 340-245-0050 that progress from simple to complex. Lower levels of risk assessment are easier to perform but rely on assumptions that are likely to overestimate the risk. More complex levels are harder to calculate because they include more site-specific details. Each source may use the lowest risk assessment level that shows compliance with the rules.
- "Risk Based Concentration" or RBC means the concentration of a toxic air contaminant listed in OAR 340-245-8040 Table 4 that, for the designated exposure scenario, results in an excess cancer risk of one in one million, or a noncancer hazard quotient of one for either chronic exposure or acute 24-hour exposure.
- "Source" means a facility that emits air pollutants. A source may consist of one or more toxics emissions units. Examples of sources that may only have one toxics emissions unit are dry cleaners and schools or commercial facilities that have a single boiler to provide heat. Sources that may consist of multiple toxics emissions units include commercial bakeries, paint shops with drying ovens, electric power generating plants and plywood mills.
- "Toxics emissions unit" or TEU refers to a piece of equipment or an operation that emits air pollutants. Occasionally, a toxics emissions unit may include multiple pieces of equipment that all do the same thing. Examples include: a boiler, a rock crusher, a pulp mill lime kiln, and a painting line that may comprise one to several paint stations.

Statement of need

Prior to adoption of OAR 340 division 245, DEQ and LRAPA air quality rules did not limit toxic air contaminant emissions based on health risks for people near industrial and commercial facilities. As a result there may have been regulatory gaps that resulted in significant localized health risks from facilities.

The draft rules would revise several existing titles in LRAPA's Rules and Regulations to integrate the new toxics rules into the existing LRAPA air permitting program. The draft rules clarify changes to LRAPA's definitions, enforcement procedures, public participation requirements, and permitting requirements and fees for ACDPs as they all relate to the newly-adopted OAR 340 division 245.

LRAPA is not proposing any changes to OAR 340 division 245, and plans to rely on the authority provided in the EQC-adopted rules to implement that main part of the new health-based air toxics program in Lane County. Similarly, LRAPA is not proposing any changes to the Oregon Title V Operating Permit program rules or fees in OAR 340 division 218 and 220, respectively. LRAPA will continue to rely on the authority provided to the Agency in OAR 340 division 218 and 220 to implement the Title V program in Lane County.

The rules that are proposed in this rulemaking are intended to clarify requirements as they relate to exisiting LRAPA air quality permitting rules.

Proposed rule or topic	Discussion
Suite of changes to LRAPA titles to allow local implementation of state-adopted Cleaner Air Oregon air toxics rules.	
What need does the proposed rule address?	LRAPA is directed by state statute and rule to implement the Cleaner Air Oregon toxics rules that have been adopted in OAR 340 division 245. Changes are needed to existing LRAPA rules to integrate similar changes DEQ made to other affected divisions including definitions, enforcement provisions and fee tables.
How does the proposed rule address the need?	The proposed rules would revise LRAPA's existing titles to allow LRAPA to control the amount of fees applied to sources affected by the new air toxics rules, add and revise some key definitions, modify enforcement rules, and include specific permitting and public participation requirements.
How will LRAPA know the rule addresses the need?	Permit conditions would be added to facilities' air permits, and fees would be assessed for and collected from affected sources in Lane County.

Rules affected, authorities, supporting documents

Lead division
Operations

Program or activity
Permitting and Toxic Air Contaminants

Adopt LRAPA Section:	37-0069 and 37-8030
Amend LRAPA Section:	12-005, 12-025, 15-005, 15-018, 15-020, 15-025, 15-045, 15-055, 15-060, 31-0020, 31-0030, 31-0040, 31-0050, 37-0020, 37-0030, 37-0040, 37-0090, and 37-8020

Statutory authority - ORS
ORS 192, 468, and 468A

Statutes implemented - ORS
ORS 183, 192, 468, 468A, 477

Fee analysis

New fees are required to implement Cleaner Air Oregon. Some of these fees would be paid by all currently permitted air quality sources and others only by sources that are called in to demonstrate compliance with Cleaner Air Oregon rules.

Affected party involvement in fee-setting process

DEQ and OHA worked with a rules advisory committee, including representatives from Lane County, that also served as the fiscal advisory committee for the Cleaner Air Oregon rules, including making recommendations about the proposed fees. Representatives of both large and small businesses were on the fiscal advisory committee.

The proposed fees are designed to generate the revenue necessary to support staffing resources authorized by the Legislature in SB 1541 for five years. These fee-funded positions would supplement existing LRAPA staff resources. Even though LRAPA has the authority to assess ACDP fees under DEQ's division 216, LRAPA prefers to adopt a revised fee schedule for clarity and consistency. LRAPA will continue to rely on DEQ's division 220 for the assessment of fees for Lane County sources subject to the Oregon Title V Operating Permit Program.

The budget report accompanying SB 1541 authorized eleven new DEQ positions, outlined in Table 1 below, within DEQ to implement the Cleaner Air Oregon rules and program. The budget report also authorizes a fee revenue transfer to OHA to support 2.56 FTE. Based upon the relative number of DEQ and LRAPA-permitted sources, LRAPA estimates that the Agency will need positions and funding equivalent to approximately 14% of the DEQ positions to implement the program in Lane County.

Table 1: Comparison of DEQ and LRAPA positions for CAO

DEQ Position	DEQ Positions	DEQ FTE	LRAPA Position	LRAPA FTE*	LRAPA Position Description
Environmental Engineer 3	1	1.0	Environmental Engineer 3 (Permit Section Manager & Lead Permit Writer)	0.14	Lead technical staff and permit writer: Leads TBACT analyses, coordinates permitting activities, reviews and approves permit attachments, and develops internal training plans.
Natural Resource Specialist 4 (Permit Writers)	3	3.0	Environmental Engineer 2 or Environmental Engineering Specialist 2 (Permit Writers)	0.42	Develops permit attachment in coordination with EE3 permitting staff and conducts other Cleaner Air Oregon permitting functions as required.
Natural Resource Specialist 4 (Risk Assessment Reviews)	1	1.0	Environmental Engineer 2 or Environmental Engineering Specialist 2 (Risk Assessors)	0.14	Provides technical assistance to sources on health risk assessment protocol development, reviews and approves health risk assessments.
Natural Resource Specialist 4 (Modeling Reviewer)	1	1.0	Environmental Engineer 2 or Environmental Engineering Specialist 2 (Modeling Reviewers)**	0.14	Provides technical assistance to sources on risk assessment modeling protocol development, reviews and approves risk assessment modeling protocols, reviews and approves risk assessment modeling results.
Natural Resource Specialist 4 (Stack Monitoring)	1	0.5	Environmental Engineer 2 and Data Quality Coordinator (Stack Monitoring)	0.07	Provides technical assistance to sources on source test plan development, and reviews and approves air monitoring results.
Program Analyst 2 (Technical Assistance/Community Outreach Coordinator)	2	2.0	Public Affairs, Enviro Tech 2, 3, 4 (Technical Assistance/Community Outreach Coordinator)	0.28	Provide specialized technical assistance to impacted parties (regulated entities and citizens) on Cleaner Air Oregon regulations, and coordinates community engagement and notification functions.
NA	--	--	Environmental Specialist 2, 3 or 4 (Compliance and Enforcement)	0.1	Compliance and Enforcement staff time to coordinate/lead Cleaner Air Oregon enforcement activities.
Program Analyst 3 (Lead staff on area risk program)	1	1.0	NA - SB1541 Precludes Area Risk Program in Lane Co.	--	SB 1541 only authorized the area risk program to the Portland area.
Information Systems Specialist 6 (database and IT)	1	0.5	Environmental Technician 2 (Database Mgmt)	0.07	Information technology (IT) support: permit database updates, integration and maintenance.
TOTAL	**11**	**10.0**	**TOTAL**	**1.4**	
OHA Position		**FTE**	**LRAPA Position**	**FTE**	
FTE Natural Resource Specialist 4 (Toxicologist)		0.75	Contract	0.105	
FTE Public Health Toxicologist		0.75	Contract	0.105	
Public Health Educator		0.5	Contract	0.07	

DEQ Position	DEQ Positions	DEQ FTE	LRAPA Position	LRAPA FTE*	LRAPA Position Description
Principal / Executive Manager D		0.1	Contract	0.014	
2017 CAO Draft Fiscal TOTAL		2.1	TOTAL	0.3	
SB1541 TOTAL		**2.56**	**LRAPA SB1541 TOTAL**	**0.4**	
			LRAPA TOTAL	**1.7**	

*14% of DEQ or OHA FTE

**May involve contract work with DEQ for the most complex modeling projects

Proposed fees

DEQ, in consultation with OHA, adopted a fee structure with two elements; base and activity fees. The two elements are responsive to input received from fee-paying stakeholders that the fees be predictable on a year-to-year basis *and* that the fees reflect that certain facilities (i.e., those actively working through the compliance requirements) are receiving a higher level of service from the agencies. LRAPA proposes to adopt the same fee amounts and types that have been adopted by the EQC.

In addition to proposed fees that are part of this rulemaking, the 2018 Legislature, through SB 1541, authorized DEQ and LRAPA to collect a one-time Supplemental Fee to cover expenses in developing and implementing Cleaner Air Oregon. The one-time Supplemental Fee applies to any source required to obtain an air permit and is set in statute, with the amount varying based on a facility's existing permit type. LRAPA permittees were invoiced for this fee in fall of 2018. SB 1541 also placed certain parameters on how DEQ and LRAPA may modify the proposed fees detailed below in the future. Because of the SB 1541 fee provisions, LRAPA has excluded the CAO fees from the annual 4% increase in ACDP fees that occurs on July 1st each year.

Annual Base Fee: The proposed annual base fee would be assessed on all sources who currently hold an air permit (local Air Contaminant Discharge Permit or federal Title V permit). Base fees differ based on a facility's existing permit type. DEQ and LRAPA estimate that in the early years of the Cleaner Air Oregon program, the majority of program funding will come from base rather than activity fees. Table 2 below shows the estimated percentage of annual revenue that would come from base fees during the first five years of program implementation. Funding during the first year of the program will come largely from the one-time supplemental fee authorized by SB 1541, which is not included below.

Table 2 Estimated Base Fee Percentages				
Year 1 Income 7/1/18-6/30/19	Year 2 Income 7/1/19-6/30/20	Year 3 Income 7/1/20-6/30/21	Year 4 Income 7/1/21-6/30/22	Year 5 Income 7/1/22-6/30/23
0%	85%	78%	71%	68%

The proposed base fees are listed in detail below in Tables 3 and 4. LRAPA is not proposing to adopt the fees for Title V sources listed in Table 4, but will continue to use the authority provided to LRAPA in division 220 to assess fees for sources subject to the Oregon Title V Operating Permit Program. While the dollar amount varies based on permit type, the Cleaner Air Oregon base fee would be proportionately equivalent (approximately 35% of existing fees in 2018) across permit categories. Note that Title V permit holders would pay a flat fee and an emissions-based (per-ton) fee. This is consistent with the existing approach to Title V permit fees.

Table 3 Cleaner Air Oregon Annual Fees for Air Contaminant Discharge Permittees		
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
c. Simple ACDP	(A) Low Fee	$806
	(B) High Fee	$1,612
d. Standard ACDP		$3,225

*The fee classes are defined in LRAPA 37-0060 for the different types of General Permits

Table 4 Cleaner Air Oregon Annual Fees for Title V Permittees
The specific activity fees under OAR 340-220-0050(4):
(a) The annual base fee of $2,859; and
(b) The annual emission fee of $21.61 per ton of each regulated pollutant for emissions during the previous calendar year, up to and including 7,000 tons of such emissions per year. The emission fee will be applied to emissions based on the elections made according to OAR 340-220-0090.

Activity Fees: Activity fees are contained in a schedule of one-time fees that correspond to elements of the proposed rules that require agency review and approval. A "call-in" fee is levied on all sources at the time they are called in to demonstrate compliance under the program and covers some of the agencies' costs associated with orienting a source to the program, reviewing modeling and risk assessment protocols and providing technical assistance. Additional activity fees are collected at the time a facility submits their application for a CAO Permit Attachment, and depend on the level of risk assessment they have performed and other activities such as community engagement or LRAPA review of source tests, risk reduction plans, case-by-case TLAER or TBACT determinations, and air monitoring plans. Compared to draft fee structures previously shared with stakeholders, the current proposed version separates the risk assessment fees from the risk management fees. This separation has made the fees additive. For example, if an owner or operator must prepare a Level 4 risk assessment and must reduce risk, the owner or operator will pay the Level 4 risk assessment fee, the risk reduction plan fee, the community engagement fee and possibly the case-by-case TBACT fee. An owner or operator choosing to undertake air monitoring would be required to pay the monitoring plan fee as well. Community engagement fees have been updated in response to SB 1541, which stipulated that DEQ and/or LRAPA must hold any public meetings that are required.

Because the type of risk assessment method used is at the discretion of the facility and subsequent approvals needed are based on the results of those risk assessments, activity fee revenue forecasts have more uncertainty than base fee revenue forecasts. Assumptions used in forecasting activity fee revenue are described in the next section.

The risk assessment methods and other permit approvals each have activity fees that are based on a workload analysis performed by DEQ. The workload analysis estimates the number of work hours (by position classification) needed for the review and approval of each activity. The complete activity fee schedule can be found below in Table 5.

Table 5 Cleaner Air Oregon Specific Activity Fees					
#	ACTIVITY	Permit Type			
		Title V	Standard	Simple	General/Basic
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 addendum required)	$1,500	$1,500	$1,000	$800
5	Level 1 Risk Assessment - permit addendum required	$2,000	$2,000	$1,500	$1,100
6	Level 2 Risk Assessment - de minimis (no permit addendum required)	$3,100	$3,100	$2,300	$2,000
7	Level 2 Risk Assessment - permit addendum required	$3,600	$3,600	$2,800	$2,300
8	Level 3 Risk Assessment - de minimis (no permit addendum required)	$8,800	$8,200	$5,300	$4,500
9	Level 3 Risk Assessment - permit addendum required	$19,900	$11,300	$7,700	$6,300
10	Level 4 Risk Assessment - de minimis (no permit addendum required)	$21,400	$18,500	$11,700	NA
11	Level 4 Risk Assessment - permit addendum required	$34,600	$25,800	$15,500	NA
	Risk Above Risk Action Levels				
12	Risk Reduction Plan Application Fee	$6,700	$6,700	$2,600	$2,600
13	Cleaner Air Oregon Monitoring Plan Fee	$25,900	$25,900	NA	NA
14	Postponement of Risk Reduction Application Fee	$4,400	$4,400	$4,400	$2,000
15	TBACT/TLAER Analysis (per Toxic Emissions Unit and type of toxic air contaminant)	$3,000	$3,000	$1,500	$1,500
	Other Fees				
16	TEU Risk Assessment Fee (no permit addendum mod)	$1,000	$1,000	$500	$500
17	TEU Risk Assessment Fee (permit addendum mod)	$4,000	$4,000	$2,000	$1,000
18	Level 2 Modeling review (TEU approval)	$1,900	$1,300	$800	$700

Table 5 Cleaner Air Oregon Specific Activity Fees					
#	ACTIVITY	Permit Type			
		Title V	Standard	Simple	General/Basic
19	Level 3 Modeling review (TEU approval)	$3,800	$3,800	$3,500	$3,500
20	Community Engagement Meeting Fee - high	$8,000	$8,000	$8,000	$8,000
21	Community Engagement Meeting Fee - medium	$4,000	$4,000	$4,000	$4,000
22	Community Engagement Meeting Fee - low	$1,000	$1,000	$1,000	$1,000
23	Source Test Review Fee (plan and data review) - complex	$6,000	$6,000	$6,000	$6,000
24	Source Test Review Fee (plan and data review) - moderate	$4,200	$4,200	$4,200	$4,200
25	Source Test Review Fee (plan and data review) - simple	$1,400	$1,400	$1,400	$1,400

Assumptions

- DEQ and LRAPA have assumed that the first sources called in would submit complex risk assessments because their risk is estimated to be high relative to other sources. The most complex risk assessments have the highest fees associated with their review.
- Agency staff, in consultation with staff from states who operate similar programs, have developed estimates of the number and types of activity fees that the first facilities will be required to pay. It is estimated that, in the first five years of LRAPA's version of the program (LRAPA applied 14% to the DEQ estimates to obtain these):
    - 5 facilities will meet their compliance obligation through a level 3 risk assessment.
    - 2 facilities will meet their compliance obligation though a level 4 risk assessment.
    - 2 facilities will meet their compliance obligation through a risk reduction plan.
    - 1 facility will meet their compliance obligation through a risk reduction plan and a TBACT plan.
    - Zero to 1 facility will meet their compliance obligation through air monitoring.

Considerations

In developing the proposed fee structure, DEQ recognized that risk-based air quality permitting is new in Oregon and as such there are uncertainties in implementation.

During the public comment period, DEQ sought additional feedback on funding proposals to implement Cleaner Air Oregon.

The EQC approval of this rule established new fees. EQC authority to adopt the fees is in ORS 468.020, 468.065, 468A.040, 468A.050, and 468A.315, and 2018 Or. Laws chapter 102, §§ 13 and 14 (SB 1541). The LRAPA Board may also establish fees under the authority provided to regional authorities in ORS 468A.100 through 468A.180.

Stakeholder engagement during the fee proposal development

DEQ staff discussed program implementation, staffing models and proposed fee structures with the Rules Advisory Committee in July and August 2017 and May 2018. As mentioned previously, the Rules Advisory Committee included several Lane County representatives including health, large business, county government, and public advocacy. LRAPA staff discussed the same with the LRAPA Board of Directors and Citizens Advisory Committee at several meetings throughout the process. Stakeholders provided DEQ the following verbal input during these meetings, which has been incorporated into the proposal:

- The program should be implemented in a tiered-approach, starting with facilities that have the potential to pose the most risk to the greatest number of people.
- DEQ should include a position in the staffing model responsible for providing technical assistance to individuals or organizations that would be impacted by the program. This

includes entities regulated by the program who are in the process of being called in and entities who are seeking to better understand their compliance obligations if/when they are called in. This also includes community groups and members of the public interested in learning about community outreach requirements.
- The fee structure should be predictable to fee-payers.
- The fee structure should acknowledge that the facilities actively working through the requirements will be receiving a higher level of service from the agencies.
- In addition to advisory committee meetings, the agencies have had direct conversations with fee paying stakeholders to further describe and discuss the fee proposal.

How long will the proposed fee sustain the program?

The proposed annual base fee, call-in fee, and specific activity fees would sustain the program in Lane County for five years, until the year 2023.

Table 6 shows estimated transactions and revenue for the proposed fees. LRAPA applied 14 % to DEQ estimates, based upon the relative number of fee payers.

Table 6
Transactions and Revenue

Biennium	Number of transactions	Number of fee payers	Impact on revenue (+/-)	Total revenue (+/-)
Current (2017-19) biennium*	1	1	$8,400	$8,400
Next (2019-21) biennium	717	300	$833,263	$833,263

*Annual base fees proposed in this rulemaking would first be collected in the 2019 fiscal year. Facilities may begin being called-in by the program between rule adoption and the end of the 2017-19 biennium. The CAO one-time supplemental fee is not included above because it is mandated in statute in SB 1541.

Amended Statement of fiscal and economic impact

Background

DEQ held a public comment period on an earlier draft of the Cleaner Air Oregon rules between October 2017 and January 2018. In March 2018, the Oregon Legislature passed SB 1541, which provided fee authorization and set certain program requirements. The agencies updated the proposed rules as a result of the earlier public comments and SB 1541. This fiscal impact statement describes the fiscal and economic impacts of the Cleaner Air Oregon rules, and references input received during two fiscal impact review advisory committee processes and the 2017 and 2018 public comment periods.

SB 1541 set benchmarks for excess lifetime cancer risk and noncancer risk, defined as Risk Action Levels in the Cleaner Air Oregon proposed rules, in statute at levels higher than what DEQ and OHA originally proposed. Based on those higher risk levels, there would be potentially less fiscal impact on regulated businesses and potentially greater costs related to public health since not as much risk reduction would be realized. In addition, the SB 1541 requirement that a source complying with federal NESHAPs would presumptively meet TBACT requirements would be expected to further limit Cleaner Air Oregon fiscal impacts at many facilities. As stated below, DEQ used best available information to estimate potential fiscal impacts, but specifically quantifying fiscal impacts was not possible because of the lack of detailed facility-specific data and risk analyses, which have not been completed, and data on health effects in specific populations near specific facilities which is not available.

DEQ determined and most CAO rules advisory committee members believed that Cleaner Air Oregon could cause a significant fiscal impact for small businesses. LRAPA agrees with this determination. As is the case for businesses generally, the extent of the small business fiscal impact is unknown and cannot be accurately quantified because it depends on future analysis of source emissions and risk, and any required emission controls. In addition to the fiscal mitigation measures initially proposed in Cleaner Air Oregon, DEQ has proposed and/or the EQC has adopted additional significant small business fiscal impact mitigation measures to lower cost, streamline procedural requirements, and provide flexibility for both small and large businesses.

Methodology for this analysis

The following analysis describes fiscal impacts to business, government and the public. For regulated businesses, the analysis focuses on the fiscal impacts associated with performing risk assessments at different levels, reducing risk, and paying fees for Cleaner Air Oregon permitting. For government, the analysis describes potential impacts on government-owned facilities and fiscal impacts to the agencies administering the new regulations. For the public, the analysis describes potential benefits to the service and consulting sector and, using example pollutants and associated illnesses, potential general fiscal benefits from decreasing health risks. All estimates in this analysis are bounded by important caveats and limitations.

DEQ used EPA Air Pollution Control Technology Fact Sheets to estimate ranges of costs for pollution control equipment that facilities may need to install if required to control toxic air contaminant emissions under CAO. DEQ contacted several pollution control equipment suppliers but they were not able to provide more detailed cost estimates without site-specific data (i.e., toxic air contaminant emitted, exhaust airflow and temperature, and space availability). Throughout the rulemaking process, DEQ also requested specific information on fiscal impacts from regulated sources who have cost information relevant to the proposed rules. During the two fiscal impact review processes and public comment periods, DEQ received a limited amount of information from committee members and commenters on costs of purchasing, installing and operating specific pollution control equipment. DEQ incorporated those estimates in the fiscal impact statement.

In November 2016 DEQ and LRAPA sent a request to permitted facilities that may be subject to Cleaner Air Oregon rules to report on their toxic air contaminant emissions. Facilities have submitted emissions data and the Agenencies worked with facilities to check the quality of their information. While this level of emissions inventory is sufficient to begin the prioritization and call-in process, the more detailed data and analysis necessary to calculate a facility's risk is not available yet. Each affected facility will need to go through the proposed risk screening and assessment process to gain accurate knowledge about risk posed and regulatory requirements. Some businesses will not be called in to demonstrate compliance and will experience little fiscal impact, some will "screen out" at more simple assessment levels and will experience relatively low fiscal impact, while others will be required to implement more complex and costly steps to assess and reduce risk from their toxic air contaminant emissions. Without a facility proceeding through the full steps of risk screening and assessment, it is not possible to predict with accuracy how much a particular business would have to spend to comply with risk reduction requirements, or how much benefit from reduction of associated toxic air contaminant risk could occur for people living nearby.

Because of the high level of uncertainty about precisely who will be affected and how, this fiscal analysis estimates potential ranges of impacts for business, government and the public, rather than developing speculative scenarios for hypothetical facilities or for each of the approximately 300 facilities that could be affected by Cleaner Air Oregon rules in Lane County. Generating scenarios for each potentially affected facility would have required additional research and modeling work for which resources were not available.

Who would experience fiscal and economic impacts?

The proposed rules would have fiscal and economic impacts on businesses, state and federal agencies, units of local governments and the public. Fiscal impacts can be positive or negative to those affected. As examples, reducing health costs to the public would be a positive impact, and increasing costs of regulatory compliance for businesses would be a negative impact.

Owners and operators of facilities that currently require an air quality permit would incur costs of program permit fees, described above, and be required to analyze whether emissions from their operations are below Risk Action Levels set under the

Cleaner Air Oregon rules. This includes public entities who manage facilities or operations requiring an air quality permit. Cost estimates for these analyses are included in Table 7 below, Cost to Facilities for Emissions Analysis and Risk Assessment. Some facilities with emissions resulting in health risks above Risk Action Levels would incur additional costs to participate in community engagement and/or to reduce emissions.

People who are exposed to toxic air contaminants at sufficient concentrations and durations have an increased chance of getting cancer or experiencing other serious health effects. These health effects can include damage to the immune system, as well as neurological, reproductive (e.g., reduced fertility), developmental (e.g., birth defects), respiratory and other health problems. In addition to exposure from breathing toxic air contaminants, some toxic air contaminants, such as mercury, can deposit onto soils or surface waters, where they are taken up by plants or ingested by animals and are eventually magnified up through the food chain to human consumption. The proposed rules may result in reduced toxic air contaminant emissions and less exposure to toxic air contaminants for people who live and work in proximity to facilities that emit toxic air contaminants. Less exposure to toxic air contaminants will result in fewer premature deaths and illnesses allowing Oregonians to experience longer lives, better quality of life, lower medical expenses, fewer work and school absences, and better worker productivity.

Table 7
Cost to Facilities for Emissions Analysis and Risk Assessment

Task	Simple	Complex
Emissions inventory	$0*-$5,000	$60,000
Level 1 Assessment – Lookup Table Calculation Using Stack Heights and Exposure Location Distance	$100	$5,000
Level 2 Assessment – Screening modeling	$5,000	$35,000
Level 3 Assessment – Refined modeling	$5,000	$100,000
Level 4 Assessment – Health Risk Assessment	$5,000	$500,000

*DEQ is calculating the emissions inventories for all of the approximately 2,200 sources that have Basic and General Air Contaminant Discharge Permits. LRAPA is calculating emission inventories for all of the approximately 230 sources that have Basic and General Air Contaminant Discharge Permits in Lane County.

Reporting

All currently permitted sources report to LRAPA annually, so their reporting requirements for Cleaner Air Oregon will be in addition to existing reporting requirements. Some facilities that aren't required to have air permits under current regulations may still be required to report, and in that case annual reporting would be new. Some facilities already report emissions of Hazardous Air Pollutants (187 pollutants out of approximately 600 toxic air contaminants) annually. Under the adopted regulations, all permitted facilities that emit toxic air contaminants must submit an emissions inventory to LRAPA every three years. Facilities that have permit

requirements to limit toxic air contaminant emissions must report compliance annually or semi-annually.

Since facilities with current air permits were already required to submit an initial toxic air contaminant emissions inventory, future updates of their emissions inventory should involve lower costs. DEQ anticipated that the additional reporting requirements for Cleaner Air Oregon would cost facilities approximately $120 to $1,200 per year.

Source testing

Source testing is currently not required as a part of Cleaner Air Oregon, but some facilities may choose to do source testing to more accurately estimate emissions. Source testing may be required to determine compliance with Cleaner Air Oregon permit conditions but DEQ and LRAPA anticipate that will not be the case for very many sources. Cost for source testing depends on the toxic air contaminant to be tested, the length of the test, and other factors. Source testing for some toxic air contaminants, such as hexavalent chromium, is relatively complex and therefore expensive. Source test costs range from $7,500 for a single toxic air contaminant that is easy to test to $35,000 for multiple toxic air contaminants that are more difficult to test. Businesses already required to perform periodic compliance source testing could limit some of these additional costs if toxic air contaminant and criteria pollutant tests could be aligned.

Monitoring

The adopted Cleaner Air Oregon regulations allow facilities to conduct ambient air monitoring and to use that data to supplement their risk assessments if they choose. DEQ and LRAPA expect that the cost of monitoring would vary based on equipment and analysis needed for different pollutants to be monitored and the number of monitors needed. Depending on the topography, meteorology, land use and exposure locations, a facility may need to run multiple monitor locations to accurately characterize concentrations resulting from its emissions.

DEQ estimated that the lower end cost for a year of monitoring including equipment, deployment and pollutant analysis could be $50,000 per monitoring location. Assuming a site would require four monitor locations, this total lower end cost could be $200,000. DEQ estimated that the higher end cost for more complex equipment, analysis or multiple pollutants could be $200,000 per monitor. If a facility needed four such locations, the total upper end cost could be $800,000. DEQ deleted an earlier proposal allowing it to require that a facility undertake monitoring and it is now a voluntary action that a facility may employ.

Community engagement

SB 1541 requires that LRAPA (rather than facilities, as proposed in an earlier draft of the rules), provide community engagement. This decreases direct community engagement costs for facilities, but fees assessed to facilities support this activity performed by LRAPA staff. If the risk from a facility is greater than the Community Engagement Risk Action Level, the Agency will provide Community Engagement and other outreach activities near that facility. As part of community engagement, LRAPA will notify the community within the area of impact when a

permit addendum application is submitted, and may hold one or more public meetings to describe the risks, and solicit input on ways to reduce the risks. If LRAPA holds a required public meeting, facilities would be required to attend and to pay a fee to LRAPA.

Statement of cost of compliance

State agencies

The majority of state agencies and local governments should be minimally or not directly impacted by the proposed rules because the rules predominantly regulate process emission sources that are not government owned. However, state agencies and local government facilities that emit toxic air contaminants may be required to reduce toxic air contaminant emissions if the predicted risk exceeds Risk Action Levels. If owners or operators choose to install pollution control equipment, Table 8 below shows what the range of estimated costs could be for both government-owned and business facilities. As of August 31, 2017 DEQ estimated that state agencies own 23 permitted facilities, federal agencies own five (5) permitted facilities, and local governments own 62 permitted facilities. In Lane County, as of December 31, 2018, state agencies own two (2) permitted facilities, federal agencies own zero (0) permitted facilities, and local governments own nine (9) permitted facilities. Currently there are no tribally owned permitted facilities. Cleaner Air Oregon base and activity fees affect these permit holders directly. Changes to fees could affect these agencies indirectly if businesses change the price of goods and services to offset any increased costs from paying a permit fee. Local government may also be consulted in land use issues related to commercial facilities emitting toxic air contaminants.

LRAPA will see an increase in workload as a result of the proposed rules. Implementation of program requirements will require additional resources. LRAPA has completed a workload analysis to estimate the cost of different levels of risk assessment and the additional resources needed. LRAPA will permit facilities subject to Cleaner Air Oregon with the aid of DEQ and possibly OHA staff in areas of health risk assessment, community engagement, and risk communication. LRAPA workloads would initially increase as staff become familiar with the proposed rules and a new program and could level off after the first years of implementation.

Having the Cleaner Air Oregon toxic air contaminant program in place may also reduce LRAPA and OHA's workload in some instances, by reducing the need for the agencies to respond on a facility by facility basis to public concerns about toxic air contaminant emissions and health effects that are not currently covered by a regulatory structure.

Table 8 Pollution Control Equipment for Toxic Air Contaminant Emissions						
Control Device Type	**Types of Pollutants it can reduce**	**Examples of facilities where this could be used**	**Initial costs[1, 2]**		**Annual Operating Costs**	
			low	**high**	**low**	**high**
Fabric filter (baghouse)	Particulate matter (PM), hazardous air pollutant (HAP) PM	Asphalt batch plants, concrete batch kilns, steel mills, foundries, fertilizer plants, and other industrial processes. Colored art glass manufacturers.	$360,000 - $18,500,000		$180,000 - $6,200,000	
Electrostatic precipitator (ESP)	PM, HAP PM	Power plants, steel and paper mills, smelters, cement plants, oil refineries	$320,000 - $10,000,000		$100,000 - $7,600,000	
Enclosure	Fugitive PM or volatile organic compounds (VOCs)	Any process or operation where emissions capture is required, i.e., printing, coating, laminating	$14,000 - $420,000		$400 - $10,000	
HEPA filter	Chrome emissions	chrome plating	$13,000 - $240,000		Application specific	
Wet scrubber (packed towers, spray chambers, Venturi scrubbers)	Gases, vapors, sulfur oxides, corrosive acidic or basic gas streams, solid particles, liquid droplets	Asphalt and concrete batch plants; coal-burning power plants; facilities that emit sulfur oxides, hydrogen sulfide, hydrogen chloride, ammonia, and other	$25,000 - $750,000		$19,000 - $830,000	

[1] Costs are from examples in the EPA Air Pollution Control Cost Manual, Report No. 452/B-02-001, EPA Air Pollution Control Technology Fact Sheets, and information provided by permitted facilities and regulatory agencies.
[2] Costs are estimated based on best available information, but may be higher or lower than shown, depending on facility-specific conditions and business decisions.

Table 8 Pollution Control Equipment for Toxic Air Contaminant Emissions						
Control Device Type	**Types of Pollutants it can reduce**	**Examples of facilities where this could be used**	**Initial costs[1, 2]**		**Annual Operating Costs**	
			low	**high**	**low**	**high**
		gases that can be absorbed into water and neutralized with the appropriate reagent.				
Wet scrubber with mercury controls (carbon injection or flue gas desulfurization)	Gases, vapors, sulfur oxides, corrosive acidic or basic gas streams, solid particles, liquid droplets, mercury	Coal-fired power generation	Low end cost not available High end cost $516,803,000		Not available	
Semi-dry scrubber with carbon injection mercury controls	Gases, vapors, sulfur oxides, corrosive acidic or basic gas streams, solid particles, liquid droplets, mercury	Coal-fired power generation	Ranges not available, estimated cost: $470,803,000		Ranges not available, estimated cost: $74,807,000	
Flue gas desulfurization with limestone injection	mercury	Coal-fired power generation	$75,000,000-$247,000,000		$3,500,000	
Activated carbon injection	mercury	Coal-fired power generation	$960,000-$5,000,000		$1,800,000	
Thermal oxidizer	VOCs, gases, fumes, hazardous	Landfills, crematories, inks from graphic arts production and printing, can and coil	$17,000 - $6,200,000		$3,500 - $5,200,000	

Table 8 Pollution Control Equipment for Toxic Air Contaminant Emissions						
Control Device Type	**Types of Pollutants it can reduce**	**Examples of facilities where this could be used**	**Initial costs[1, 2]**		**Annual Operating Costs**	
			low	**high**	**low**	**high**
	organics, odors, PM	plants, hazardous waste disposal. semiconductor manufacturing				
Regenerative thermal oxidizer	VOCs	Paint booths, printing, paper mills, municipal waste treatment facilities	$940,000 - $7,700,000		$110,000 - $550,000	
Catalytic reactor	VOCs, gases	Landfills, oil refineries, printing or paint shops	$21,000 - $6,200,000		$3,900 - $1,700,000	
Carbon adsorber	Vapor-phase VOCs, hazardous air pollutants (HAPs)	Soil remediation facilities, oil refineries, steel mills, printers, wastewater treatment plants	$360,000 - $2,500,000		Not available	
Biofilter	VOCs, odors, hydrogen sulfide (H_2S), mercaptans (organic sulfides)	Wastewater treatment plants, wood products facilities, industrial processes	$360,0000 - $3,600,000		Not available	
Fume suppressants	Chromic acid mist, chromium, cadmium and other plating metals	Chromic acid anodizing and chrome plating operations	Up to $122,000		Not available	

As an alternative to or in addition to the controls above, facilities may be able to use pollution prevention to meet CAO risk reduction requirements. In EPA's, DEQ's, and LRAPA's hierarchy of pollution management strategies (acceptable ways to reduce pollution), pollution prevention, also known as source reduction, is preferred over the addition of pollution controls and treatment whenever feasible (see Pollution Prevention Act of 1990, https://www.epa.gov/p2/pollution-prevention-act-1990).[3] Pollution prevention has been implemented successfully for cleaning operations (e.g., metal parts), coating and painting (e.g., marine anti-fouling, wood preservation), lubricants and process fluids (e.g., loss lubrication, mold release agents), and dry cleaning of clothes. In evaluating the costs of pollution prevention, DEQ considered not only the cost of replacing one production method with another, but also capital costs, energy differences, labor costs, waste disposal and quality control considerations. In many instances involving both large and small businesses, DEQ found that pollution prevention can decrease costs for a facility owner, rather than increase them. Short-term investments in pollution prevention measures can result in savings that may pay for the initial investments over time.

Local governments

As noted above, local governments own or operate 9 facilities currently requiring an air quality permit in Lane County. Minimally, those local government agencies would be impacted by the proposed fee structure for Cleaner Air Oregon which includes an annual base fee assessed on all current air quality permit holders. In addition, local governments who operate facilities that are called in to Cleaner Air Oregon would be required to assess the risk that the facility's emissions pose and in some cases may be required to reduce that risk.

Local government representatives, such as city or county health or planning staff and elected officials may also be impacted by the need to participate in public meetings, including time to research and understand potential toxic air contaminant health concerns and risk assessment and permitting issues, and time spent preparing communications and attending meetings. DEQ and LRAPA are not able to quantify the time and fiscal impact on public process participants, but recognizes that time spent may impact local government budgets for travel or other expenses.

Large businesses

LRAPA anticipates the proposed rules, when fully implemented, could have fiscal and economic impacts on approximately 150 existing large businesses holding air quality permits and an unknown number of new large businesses and businesses that do not have air permits. If the cancer or noncancer risk from a facility exceeds the Risk Action Levels, the facility would be required to take action to reduce toxic air contaminant emissions or show that TLAER or TBACT is already being achieved. The proposed rules would allow facilities

---

[3] Pollution prevention is generally preferred because it results in less pollution to control, treat, or dispose of. Pollution controls can generate wastes or contaminated equipment that require end-of-life management. Reducing pollution at the source means fewer hazards posed to the public and the environment. In addition, pollution controls can fail and toxic substances can be used in unintended ways. Reducing the use of those toxic substances at the source avoids those potential risks.

flexibility in choosing a method to reduce emissions through the application of pollution prevention or pollution control equipment. If owners or operators choose to install pollution control equipment, Table 8 above shows what the range of estimated costs could be. Small businesses may also incur these costs if required to install pollution control equipment.

As required by SB 1541, the draft proposed rules allow that existing facilities (major sources of hazardous air pollutants that emit 10 tons/year of one hazardous air pollutant or 25 tons/year of combined hazardous air pollutants) complying with federal toxic air contaminant standards known as National Emission Standards for Hazardous Air Pollutants (NESHAPs) will under certain conditions be presumed to meet TBACT requirements. Although specific numbers will not be known until sources proceed through the screening and analysis process, this requirement will likely decrease fiscal and economic impacts for many sources of toxic air contaminants. Many facilities already complying with a NESHAP would not need to reduce their risk unless they exceed a risk level of 200 in a million excess cancer risk or an HI of 10. This is higher than the originally proposed levels of 25 in a million and an HI of 1, and is expected to result in a lower fiscal impact than the October 2017 proposed rules.

Included in public comments DEQ received was a cost benefit analysis performed by Maul Foster Alongi (MFA) on behalf of Oregonians for Fair Air Regulations (OFAR), a business interest group. The MFA analysis submitted by OFAR during the first public comment period concluded that CAO would cost facilities between $44 million and $8.4 billion over the first 20 years of the program. An updated analysis submitted during the second public comment period concluded that CAO would cost facilities between $44 million and $34 billion over the first 20 years of the program.

DEQ reviewed MFA's analysis, but the information submitted with the public comment was not sufficient to fully reconstruct it. However, DEQ can comment on the assumptions that were listed.

The MFA analysis was designed to "bracket" potential CAO compliance costs between a low and high scenario, with a medium scenario in between. The low scenario is based on an assumption that all facilities will screen out of CAO requirements with a Level 1 risk assessment, which does appear to represent a lower bound to what CAO compliance costs could be for facilities. DEQ analyzed the medium and high scenarios proposed by MFA and believes that they include several factors that tend to significantly overestimate the total costs.

MFA assumed that all facilities with air permits will be called in to CAO during the first 20 years of the program, which would overestimate costs because DEQ will likely not call in facilities that screen out as de minimis based on emissions inventory data.

MFA also appeared to assume that all facilities that are above the TBACT level after a Level 3 risk assessment will proceed to Level 4, though DEQ anticipates that few facilities will have the unusual exposure scenarios under which it would benefit them to perform a Level 4 risk assessment.

MFA also assumed that all facilities that proceed to Level 4 will ultimately install pollution controls. This is likely an overestimate because many facilities above the TBACT level may qualify as having presumptive TBACT, based on the new rule provisions brought in from SB 1541. Also, the increase in the RALs between the first and second public comment periods

should reduce the number of facilities that will be required to install pollution controls, but did not reduce MFA's estimate of that parameter.

MFA's estimate of the cost of installing and operating pollution controls for CAO is also likely to be an overestimate, particularly for their most recent submittal, because they used an average of installation and operation costs from a list of pollution controls that included controls that would be necessary only for a coal-fired power plant, which are very high cost. That is likely to be an overestimate because Oregon's only coal-fired power plant is mandated by rule to close in 2020, and Oregon statutes phasing out coal-fired power mean that new coal-fired power plants in Oregon (with attendant high pollution control costs) are unlikely.

Finally, MFA acknowledged that their analysis, "does not reflect any specific Oregon facility, and the information available to MFA is insufficient to allow estimation of whether any specific facility will incur increased costs or the value of those costs." DEQ concluded that the MFA medium- and high-cost scenarios both likely significantly overstate the fiscal impacts on businesses.

The ultimate compliance costs of the program would depend on many factors, including facility risk assessments and TBACT analyses that are not yet complete. DEQ has concluded that the overall cost to business over a 20 year period is likely at least $44 million, and will likely be higher than that. LRAPA estimates based upon relative numbers of permitted facilities that the overall cost to business over a 20 year period is likely at least $6 million. But any determination of how much higher would be purely speculative. That said, DEQ provided, in Tables 7 and 8 above, the ranges of costs that individual facilities will encounter when they are "called in" and are required to demonstrate compliance with the CAO rules.

Small businesses

Similar to the requirements for large businesses, the proposed rules would require that the facility owner or operator of a small business demonstrate that the risk posed by the facility's air emissions would not exceed the proposed Risk Action Levels. This compliance demonstration can be accomplished using any of the levels of risk assessment, 1 through 4.

In addition to the fiscal and economic impact described in the large business section above, the proposed rules could have the following impacts on small business:

Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule

The proposed rules could affect approximately 130 small businesses in Lane County. These businesses include asphalt plants, auto body shops, chromium electroplaters, ethylene oxide sterilizers, grain elevators, lumber mills, metal fabricators, metal foundries, and surface coaters. If any of these businesses are called in to Cleaner Air Oregon and receive CAO permit conditions, they would have additional compliance requirements in addition to existing permit requirements. In addition there may be an unknown number of additional facilities that are currently not required to get permits under the existing air quality permitting program but may be required to submit emissions inventories, perform risk assessment and pay fees because of the Cleaner Air Oregon rules. Facilities

that are not required to get air permits under existing rules could not be required to reduce risk under Cleaner Air Oregon.

Many of the small businesses subject to the Cleaner Air Oregon rules would only be required to submit triennial reports of toxic air contaminant emissions. Some small businesses may be required to reduce toxic air contaminant emissions through either permit limits, pollution prevention or pollution control equipment if cancer risk, chronic noncancer risk or acute noncancer risk is above Risk Action Levels.

Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule

Small businesses that must meet Cleaner Air Oregon permit requirements would have increased recordkeeping and reporting requirements. Administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule may increase in a range from $100 to $500,000 above current costs if the small business is required to perform computer modeling or a health risk assessment if cancer risk, chronic noncancer risk or acute noncancer risk is above Risk Action Levels.

Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule

Depending on the size and nature of a small business's operation, pollution control costs could be much less than, or in some cases the same as, the cost ranges for different types of control equipment found in Table 8, above. Summarizing from Table 8, if a small business's cancer risk, chronic noncancer risk or acute noncancer risk were above Risk Action Levels, the proposed rules could result in additional costs ranging from approximately $13,000 to $18,500,000 for initial equipment including purchase and labor, and ranging from approximately $400 to $7,600,000 in annual operating costs[4]. The same decrease in costs that apply to large businesses resulting from higher risk action levels required in SB 1541 will apply to smaller businesses. Smaller businesses are even more likely to screen out of more costly Cleaner Air Oregon requirements at risk levels of 50 in a million and an HI of 5.

Because of existing regulatory coverage and generally low risk estimates for gas stations and dry cleaners, DEQ proposed not to require these facilities to perform risk assessments. If DEQ and LRAPA determine that risk may need to be reduced from these types of facilities, DEQ would change the existing rules that would apply to all gas stations and dry cleaners. These facilities would need to pay small fees to be tracked and evaluated by DEQ and LRAPA, but generally would not bear the costs of risk analysis or emission reductions.

Mitigation measures for small businesses

DEQ determined and most fiscal advisory committee members indicated that Cleaner Air Oregon could cause a significant fiscal impact for small businesses. LRAPA agrees with that

[4] Costs in Table 8 for a wet scrubber with mercury controls, semi-dry scrubber with carbon injection mercury controls, and flue gas desulfurization with limestone injection are most often used at coal-fired power plants, which are unlikely to meet small business criteria.

determination. As is the case for businesses in general, the extent of the small business fiscal impact is unknown and cannot be accurately quantified because it depends on future analysis of source emissions and risk, and any required emission controls. As a result of public comment and discussion with the fiscal advisory committee in two meetings, DEQ developed a final proposal of small business fiscal impact mitigation measures in Cleaner Air Oregon to lower cost, streamline procedural requirements, and provide flexibility for small business. DEQ lacked specific information to provide estimates of cost decreased from these measures. Mitigation measures include:

- Cleaner Air Oregon base fees are a percentage of existing permit base fees. Many smaller facilities are on General or Basic Air Contaminant Discharge Permits, which have lower base fees and whose CAO base fees would also be low. This is consistent with fiscal advisory committee small business mitigation recommendations on providing lower fees for small businesses.

- Smaller sources on General and Basic Air Contaminant Discharge Permits (approximately 250 Lane County sources, including gas stations and dry cleaners) are not be required to prepare and submit an emissions inventory, as was required for all other permitted sources. These businesses are not required to perform Level 1 risk assessment either. LRAPA will do both the emissions inventory and the Level 1 risk assessment for these sources. Only sources on General and Basic Air Contaminant Discharge Permits that calculate emissions using material balance methods (less than 11 sources) would be required to prepare and submit their own emissions inventories. This is consistent with fiscal advisory committee small business mitigation recommendations on providing technical assistance.

- Given the lower potential for higher risk emissions, smaller businesses are likely to be called in later in program implementation, after the higher risk facilities, delaying regulatory costs for some smaller businesses. These businesses would be able to use screening tools to determine whether they could undertake emission reductions or process changes to avoid more costly assessment measures like modeling or monitoring.

- Fiscal impacts to businesses, including small businesses, generally decreased between the 2017 and 2018 draft regulations because risk action levels became less stringent or allowed more risk as required by SB 1541.

- The SB 1541 requirement that sources, including small businesses, complying with federal NESHAPs would presumptively meet TBACT requirements would be expected to further limit Cleaner Air Oregon fiscal impacts for many sources.

- Sources that are de minimis or exempt would not need to take action to obtain a permit or reduce risk under Cleaner Air Oregon. DEQ proposed an increase to the Source Permit Level for existing facility cancer risk, which will raise the de minimis risk level for facilities. This should further mitigate impacts on small businesses, by lessening the burdens associated with permitting for facilities that pose low risk.

- The adopted change to the significant TEU level would reduce the burden on businesses that exceed the TBACT or TLAER levels, by ensuring that they don’t have to conduct

TBACT/TLAER analyses or install TBACT/TLAER on TEUs that only pose a very small part of their total risk.

- Businesses, including small businesses, can apply to delay or postpone risk reduction based on financial hardship.

- Air monitoring, which can be very expensive, would be optional for all sources including small businesses. No source would be required to undertake air monitoring.

- The program would include a technical assistance staff person to help sources explore and analyze emission reduction options if they are required. DEQ and LRAPA anticipate that technical assistance to small businesses will be prioritized, consistent with fiscal advisory committee small business mitigation recommendations on providing technical assistance.

How DEQ and LRAPA involved small businesses in developing this proposed rule

DEQ notified Lane County small businesses during rule development by email, announcements on the DEQ and LRAPA website, advisory committee meetings, and through Twitter and Facebook. Small business representatives were on the Rules Advisory Committee during rule development. At the onset of the first public comment period, DEQ notified small businesses, including those in Lane County, by email, and notices in the Secretary of State Bulletin.

Impacts on the public

The adopted Cleaner Air Oregon rules are intended to assess and decrease risk above Risk Action Levels for people living near industrial and commercial facilities that emit toxic air contaminants. Risk analyses will be based on many factors, including the best available science regarding toxicity of regulated toxic air contaminants, as in the Risk-Based Concentrations. Cleaner Air Oregon toxic air contaminant reductions that decrease cancer risk, chronic noncancer risk or acute noncancer risk could create positive economic benefits and improvements in public health and welfare statewide. The rules could also have negative economic effects on the public. In analyzing potential positive and negative effects on the public of the proposed Cleaner Air Oregon rules, DEQ consulted with OHA staff and relied upon information provided by them.

Positive impacts on the public

The adopted Cleaner Air Oregon rules have the potential to meaningfully impact public health in the state by reducing toxic air contaminant emissions. The toxic air contaminants that would be regulated by Cleaner Air Oregon rules are known to increase risk of a wide range of health outcomes including cardiovascular and respiratory illness, lung disease, cancers, birth defects, premature births, developmental disorders, central nervous system damage, intellectual disability, and premature death.

Based on a preliminary analysis of a subset of emissions inventory data using proposed screening tools and Risk Action Levels, DEQ and OHA have determined that a number of toxic air contaminants are most likely emitted at concentrations whose risk exceeds the

proposed Risk Action Levels. Information from EPA's National Air Toxics Assessment supports this initial analysis. The impact of toxic air contaminants on health depends on people's exposure. DEQ, OHA and LRAPA do not currently have enough information about how many people are exposed to specific concentrations of industrial and commercial toxic air contaminant emissions or about the relative actual contribution of toxic air contaminants to disease to know how reducing emissions will translate to improved public health in quantitative terms. As Cleaner Air Oregon regulations are implemented, the emissions inventory and the permitting process will improve LRAPA, DEQ and OHA's understanding of Oregonians' toxic air contaminant exposures. This is especially true for public health risk from toxic air contaminants in neighborhoods close to industrial facilities, where risk may never have been specifically or accurately assessed.

National and local air toxics models and other states' estimates show that an array of emissions sources contribute significantly to public health risk. These include non-industrial emissions from vehicle engines, wood burning and atmospheric formation of toxic air contaminants, as well as industrial emissions. However this information cannot be used to estimate risk for people living nearby industrial facilities because the data are on too large a geographic scale, do not factor in where people are actually exposed, do not include all facilities, do not assess the number of pollutants proposed for Cleaner Air Oregon, and do not include risk from acute exposures. At the geographic level of neighborhoods that could be impacted by industrial toxic air contaminant emissions, the relative proportions of sources causing toxic air contaminant risk can be very different from those on a larger spatial scale, for example at the census tract, county or state level. In other air quality programs, DEQ and LRAPA continue to work on the larger scale exposure risks from ubiquitous non industrial sources. Cleaner Air Oregon gave LRAPA a regulatory tool to address localized health risks from toxic air contaminants, and industrial emissions reductions will also contribute to area-wide reductions in air toxics.

In this analysis it is not possible to predict the total reduced medical costs that would result from the proposed rules for the reasons noted above. However, it is possible to describe the range of health outcomes associated with toxic air contaminants currently emitted in Oregon and to describe the economic burden of medical treatment for a subset of those health effects. This section also points to national analyses that estimate the fraction of certain diseases that are due to environmental exposures.

Health effects caused by toxic air contaminants commonly emitted by facilities in Oregon

DEQ and OHA summarized the health effects associated with 15 of the toxic air contaminants to be regulated under Cleaner Air Oregon. This information is summarized in Table 9 below. This summary illustrates the range of health effects that may be caused by this small subset of 15 toxic air contaminants. Many more of the toxic air contaminants to be regulated under Cleaner Air Oregon are associated with these and other health effects.

Table 9

Examples of health effects associated with a subset of 15 toxic air contaminants

Type of Toxicity	Toxic air contaminants associated with these health outcomes
Respiratory Effects Includes asthma and asthma symptoms (difficulty breathing, shortness of breath, coughing, wheezing, chest pain), reduced lung function, respiratory irritation, and other respiratory conditions	formaldehyde*, cobalt*, hexavalent chromium*, cadmium*, chlorine*, acrolein*, hydrogen fluoride*, naphthalene*, PAHs, manganese, arsenic
Cancer includes lung, respiratory, leukemia, lymphoma, liver, kidney and gastrointestinal cancers	arsenic*, hexavalent chromium*, cadmium*, formaldehyde*, PAHs*, benzene*, trichloroethylene*, lead*, dioxins*, naphthalene*
Heart Disease includes hypertension, arrhythmia, heart attack	arsenic, PAHs, lead, acrolein, hydrogen fluoride
Kidney Function includes reduced kidney function, kidney stones	cadmium*, lead, trichloroethylene, hydrogen fluoride
Liver Disease includes reduced liver function, fatty liver disease	dioxin*, trichloroethylene, hydrogen fluoride
Neurological Effects includes effects on motor function, balance, vision, hearing, cognition, memory, anxiety, focus or behavior following exposure as an adult or during brain development	lead*, arsenic*, manganese*, cadmium, PAHs, benzene, trichloroethylene, formaldehyde, cobalt
Fetal Development includes low birth weight, pre-term birth, miscarriage, and birth defects following exposure to mothers during pregnancy	arsenic*, PAHs*, trichloroethylene*, formaldehyde, cadmium, benzene, trichloroethylene, lead, dioxins
Impaired Fertility includes damage to male or female reproductive organs, reduced sperm counts, altered sex hormones, and infertility	manganese, PAHs, hexavalent chromium, dioxins, trichloroethylene
Blood Regulation includes impaired bone marrow function, anemia	benzene*, lead, naphthalene, cobalt

Table 9 Examples of health effects associated with a subset of 15 toxic air contaminants	
Type of Toxicity	Toxic air contaminants associated with these health outcomes
Immune Function includes allergic responses, reduced immune function	trichloroethylene*, benzene*, dioxins, PAHs

*For these chemicals, the associated health effect serves as the basis for Risk Action Levels proposed in Cleaner Air Oregon. Inclusion of all other chemicals is based on studies referenced in EPA, ATSDR, or OEHHA documents. The magnitude of and certainty around these associations varies.[5]

Information needed to quantify economic impact of health improvements

Oregon currently lacks the data necessary to quantify total potential health cost savings from Cleaner Air Oregon because of the lack of information about how many people are exposed to specific concentrations of industrial and commercial toxic air contaminant emissions and the relative actual contribution of toxic air contaminants to disease. Just as a lack of information about individual facility risk assessment and emission reduction outcomes prevents LRAPA, DEQ and OHA from quantifying specific fiscal impacts to businesses, a lack of health information also prevents LRAPA and DEQ from quantifying specific positive fiscal impacts from potential Cleaner Air Oregon emission reductions. The health impact of reducing emissions depends on the specific chemicals that are being reduced, the health risks those chemicals influence, the relationship between exposure and health, and the extent to which emissions are reduced. Defining the economic impact of improved health further requires knowledge of the portion of cases that are related to toxic air contaminant exposures, prevalence of health outcomes in the state, and the cost of medical treatment for each case.

Included with the compliance cost analysis submitted by Oregonians for Fair Air Regulations was an analysis of the health benefits of CAO. The submittal during the first public comment period, prepared for OFAR by Maul Foster Alongi, attempted to quantify an upper bound for potential health benefits of CAO, using information about asthma, cancer and cardiovascular disease and assumptions about the proportion of those diseases caused by pollution from emissions sources that would be subject to CAO. DEQ and OHA reviewed and considered the

---

[5] EPA Integrated Risk Information System. https://www.epa.gov/iris

ATSDR Toxic Substances Portal. https://www.atsdr.cdc.gov/toxprofiles/index.asp

California Office of Environmental Health Hazard Assessment. Air Toxics Hot Spots Program Technical Support Document for the Derivation of Noncancer Reference Exposure Levels. Dec, 2008 https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-technical-support-document-derivationadoption-air-toxics-hot-spots-program-technical-support-document-derivation

methods and conclusions of their analysis. The agencies concluded that there was not sufficient evidence to support several of the fundamental assumptions of MFA's calculations. More information can be found in the response to the public comment category "Fiscal impacts – Sufficiency of fiscal impact statement". The updated MFA analysis submitted during the second public comment period did not attempt to quantify the potential health benefits.

As described above, DEQ and OHA believe that multiple data gaps would need to be filled in order to accurately quantify potential health benefits of CAO at this time. However, we have presented information about what is known, including known data gaps, in the sections below.

Table 10 summarizes data limitations for the different types of information that would be necessary to assess health effects.

Table 10 Availability of Data Needed to Quantify Economic Impact of Health Improvements	
Information Type	Current availability of data
Health risks associated with each chemical	Some chemicals are well characterized, while toxicity data is missing or incomplete for others. There is some information about toxicity for all chemicals with proposed RBCs. The amount of information and level of certainty around the association with health effects varies.
Relationship between exposure and health	Even when health effects are identified, it can be difficult to quantify the amount of risk expected at a specific level of exposure; This relationship is well characterized for some chemicals and not available for others. While there is evidence that multiple chemicals may interact to affect health, there is little information to quantify these effects. This makes it difficult to evaluate the cumulative health impact of reducing exposure to multiple toxic air contaminants.
Level of current exposure	Information from existing LRAPA air permits and EPA's National Air Toxics Assessment provide some information on potential exposures, but these do not cover all sources of industrial toxic air contaminants. The emissions inventory will help provide a clearer picture of current potential exposures once it is complete. As CAO is implemented and facilities perform risk assessments in the course of the new permitting process, we will have a more accurate picture of emissions.
Percent of each health outcome that is attributable to toxic air contaminants	This is determined based on what we know about the relationship between exposure and effect, the extent to which exposure to each chemical occurs, and the extent to which other factors are known to contribute to health risk. Previous analyses of the environmental contribution to disease have weighed these factors to identify the percent of each health outcome that is due to an environmental exposure. This is referred to as the "environmentally attributable fraction". Typically, this is presented as a range rather than a specific percentage to demonstrate the extent of uncertainty around each estimate. Existing estimates for “environmentally attributable fractions” of specific diseases have been designed for smog-producing chemicals and are generally not directly applicable to the set of chemicals covered in Cleaner Air Oregon

Table 10 Availability of Data Needed to Quantify Economic Impact of Health Improvements	
Information Type	Current availability of data
Prevalence of each health outcome in Oregon	OHA tracks incidence of several health outcomes that may be impacted by toxic air contaminants, including cancer, adverse birth outcomes, asthma, and heart disease. Baseline data is not as readily available for conditions related to brain development, neurological outcomes, infertility, allergy, immunity, and other health outcomes that may be impacted by toxic air contaminants but are not conditions health care providers must report under current public health rules.
Economic burden of each case of illness	Economic costs can be measured in different ways. Some estimates focus on direct medical costs of disease. Others account for indirect costs such as missed days of work and school. For some health outcomes metrics of different types have been established by the CDC or in published literature, while for other health outcomes data on economic burden is less easily accessible. In addition, social costs of illness such as social isolation, time spent by unpaid caretakers, and emotional burden of premature death are important to consider but difficult to quantify.
Predicted reduction in exposure	This will depend on which facilities are included in the first tier of implementation and which toxic air contaminants they emit. Without complete information on current emissions, it is difficult to know how much emissions of each air toxic will be reduced in order to bring facilities into compliance

Costs of chronic diseases in Oregon

Toxic air contaminants included in Cleaner Air Oregon are associated with increased risk of four of the top five leading causes of death in Oregon (heart disease, stroke, respiratory disease, and cancer).[6] LRAPA, DEQ and OHA don't know what portion of these may be attributable to industrial and commercial toxic air contaminants, but data clearly show that chronic diseases have a substantial social and economic impact in Oregon. OHA uses Center for Disease Control and Prevention data to estimate the cost of certain chronic diseases in Oregon. If even a small fraction of these chronic health outcomes is attributable to toxic air contaminants, reducing emissions could prevent substantial health costs in addition to human suffering. The total estimated costs of chronic diseases tracked in Oregon are summarized in Table 11.

[6] OHA. 2016. Leading Causes of Death http://public.health.oregon.gov/ProviderPartnerResources/PublicHealthAccreditation/Documents/indicators/leadingcausesofdeath.pdf)

Table 11

Total Estimated Cost of Chronic Diseases that are Tracked in Oregon

Health Outcome	Description	Average Annual Cost of Each Case	Estimated Annual Medical Costs in Oregon[A]	Examples of toxic air contaminants that may contribute to health risk
Asthma	Estimates include adults and children	$2,740	$411 million	formaldehyde, cobalt, hexavalent chromium, cadmium, PAHs, manganese, arsenic
Cancer	Estimates are based on adult cancer treatment only	$11,410	$1.9 billion	arsenic, hexavalent chromium, cadmium, formaldehyde, PAHs, benzene, trichloroethylene, lead, dioxins, naphthalene
Cardiovascular disease	Estimates are for adults only and include hypertension, stroke, coronary heart disease, congestive heart failure, and other heart disease	$2,220-$16,760 (disease-specific)	$3.6 billion[B]	arsenic, PAHs, lead, acrolein, hydrogen fluoride

[A] Calculated using the CDC Chronic Disease Cost Calculator [7] based on 2008 prevalence and cost statistics and 2010 census data. Estimates are limited to medical expenditures and do not include indirect costs such as missed days of work and school.
[B] This cost estimate integrates costs of all cardiovascular disease without double counting costs of treatments for comorbid cardiovascular conditions.

---

[7] OHA, 2010. Estimated medical treatment costs of chronic diseases, Oregon 2010. http://www.oregon.gov/oha/PH/DISEASESCONDITIONS/CHRONICDISEASE/DATAREPORTS/Documents/datatables/CDCC_2010.pdf

Oregon Health Authority also tracks cases of pre-term birth, low birth weight, miscarriage, and some birth defects. There are no existing estimates of the direct medical costs associated with these adverse birth outcomes in Oregon, but there is potential for substantial economic and social impact. The total incidence of selected adverse birth outcomes in Oregon are summarized in Table 12. While several toxic air contaminants are associated with increased risk for these adverse birth outcomes, the portion of cases attributable to exposure to toxic air contaminants is unknown.

Table 12

Adverse Birth Outcomes in Oregon

Health outcome	Total number of pregnancies impacted by each health outcome in OR 2009-2013[A]	Potential Economic and Social Costs	Examples of toxic air contaminants that may contribute to health risk
Low birth weight[B]	14,239	Costs depend on degree of prematurity/weight but can include direct medical costs associated with neonatal ICU treatment, increased risk of neonatal infections, increased risk of developmental disabilities, predisposition to disease later in life, parental stress, and costs of parents' missed days of work.	arsenic, PAHs, formaldehyde, cadmium, benzene, trichloroethylene
Pre-term birth[C]	17,442	Costs depend on degree of prematurity/weight but can include direct medical costs associated with neonatal ICU treatment, increased risk of neonatal infections, increased risk of developmental disabilities, predisposition to disease later in life, parental stress, and costs of parents' missed days of work.	lead, formaldehyde
Miscarriage[D]	978	Costs include direct medical costs, genetic testing/placental virus testing to determine the cause, parents' missed days of work, and emotional trauma to parents.	PAHs, lead, formaldehyde, arsenic, dioxins, trichloroethylene

Table 12 Adverse Birth Outcomes in Oregon			
Health outcome	Total number of pregnancies impacted by each health outcome in OR 2009-2013[A]	Potential Economic and Social Costs	Examples of toxic air contaminants that may contribute to health risk
Birth anomalies[E]	2,831	Costs are highly variable depending on the type and severity of the anomaly, but may include neonatal surgery, follow-up surgeries and medical costs throughout childhood and into adulthood, long-term disability, parents' missed days of work, and stress to families	dioxins, arsenic, trichloroethylene, benzene

[A] There were 228,115 total live births in Oregon 2009-2013.
[B] <2500 grams birth weight. Source: Vital records
[C] <36 weeks' gestation at birth. Source: Vital records
[D] Fetal deaths at or after 20 weeks of gestation. Any spontaneous pregnancy losses earlier in gestation are not recorded. Source: Oregon Vital Records http://www.oregon.gov/oha/PH/BIRTHDEATHCERTIFICATES/VITALSTATISTICS/Pages/index.aspx
[E] Birth anomaly numbers are limited to cases of 12 "core" birth anomalies that have been tracked historically in the Oregon Birth Anomalies Surveillance System (anencephalus, cleft lip alone, cleft palate, gastroschisis, hypoplastic left heart syndrome, hypospadias, limb deficiencies, spina bifida, tetralogy of fallot, transposition of the great arteries, and trisomy 21). Oregon has recently started tracking a broader set of birth anomalies but data are not yet available. National Birth Defects Prevention Network, 2016 https://www.nbdpn.org/docs/bdra23587-sup-0001-suppinfo01_2016DEC16.pdf

Estimates of the portion of health effects caused by pollution

Several analyses have estimated the portion of a given disease that is attributable to environmental exposures. Because there is often uncertainty around the complex ways that genes, nutrition, social factors, behavior, and chemical exposures interact to influence health, the environmentally attributable fraction is often presented as a range rather than a specific number.

These estimates of the environmentally attributable fraction are not specific to the set of toxic air contaminants included in Cleaner Air Oregon. Therefore, these numbers cannot be directly applied to estimate the contribution of toxic air contaminants to health risks in

Oregon. Rather, they provide an indication of the potential magnitude of the contribution of pollution to disease. The most comprehensive assessment of the contribution of pollution to disease is a 2002 study drawing on 1997 data (dollar figures are 1997 dollars). The findings are summarized below.

- Asthma. Researchers estimate that 10-30% of asthma is attributable to outdoor air pollution (including both industrial and non-industrial sources). The yearly fraction of asthma cases that could be attributed to environmental factors cost the US between $0.7 and $2.3 billion. These cost estimates account for direct medical costs and lost productivity due to asthma-related premature deaths.[8]
- Cancer. Researchers estimate that between 2-10% of childhood cancer is attributable to environmental factors, accounting for nationwide costs ranging from $132-663 million a year. These cost estimates account for direct medical costs, costs associated with secondary cancers, lost productivity associated with treatments and premature death.[5]
- Neurodevelopmental disorders. Researchers estimate that 5-20% of neurodevelopmental disorders such as ADHD, autism, and mental retardation may be attributable to environmental factors (excluding lead which was considered separately), costing the US between $4.6-18.4 billion a year. Cost estimates in this study were based on direct costs of medical care, long-term care, and lost productivity.[5] Another study estimated that developmental delays caused by exposure to polycyclic aromatic hydrocarbons in New York City alone cost $13.7 million.[9]
- Lead Poisoning. Researchers estimated that the total cost of childhood lead poisoning in the US was 43.4 billion yearly. All cases of lead poisoning are attributed to lead exposure, but the relative contribution of different sources of exposure to lead is not well established.

Living near industrial and commercial sites is associated with increased risk of illness

Several national studies, most published in the past five years, have found that living near industrial and commercial sites increases risk for several health conditions that are common in Oregon. The specific health impacts that are observed depend on the kinds of chemicals industries are using. Taken together, these studies suggest that reducing industrial and commercial exposure to toxic air contaminants could improve health.

- Mortality. A national study found that counties with higher rates of toxic air and water emissions also had increased rates of adjusted mortality.[10]

---

[8] Landrigan PJ, Schechter CB, Lipton JM, Fahs MC, Schwartz J. Environmental pollutants and disease in American children: estimates of morbidity, mortality, and costs for lead poisoning, asthma, cancer, and developmental disabilities. Environ Health Perspect. 2002 Jul;110(7):721-8

[9] Weiland K, Neidell M, Rauh V, Perera F. Cost of developmental delay from prenatal exposure to airborne polycyclic aromatic hydrocarbons. J Health Care Poor Underserved. 2011 Feb;22(1):320-9. doi: 10.1353/hpu.2011.0012

[10] Hendryx M, Fedorko E. The relationship between toxics release inventory discharges and mortality rates in rural and urban areas of the United States. J Rural Health. 2011 Winter;27(4):358-66. doi: 10.1111/j.1748-0361.2011.00367.x

- Cardiovascular disease. A national study found that counties with higher emissions of carcinogens, metals, or hazardous air pollutants saw significantly higher rates of mortality from cardiovascular disease.[11]
- Autism. A national study found that children living close to industrial and commercial facilities releasing arsenic, lead or mercury into the air are significantly more likely to be diagnosed with autism spectrum disorder.[12]
- Asthma. A nationwide evaluation of National Air Toxics Assessment data performed by CDC scientists found a correlation between modeled acrolein exposure and prevalence of asthma attacks in census tracts across the US.[13]
- Cancer. A national study found that living close to industrial and commercial facilities releasing chemicals known to cause cancer is associated with significantly higher rates of cancer hospitalizations. The authors estimated that in 2009, excess cancer risk associated with these industrial and commercial exposures cost an estimated $902.8 million in treatment costs.[14]

Improved air quality can improve public health

There are several examples of clear public health improvements observed in response to improvements in air quality:

- In Southern California, air pollution control efforts were accompanied by meaningful improvements in children's respiratory health. As air quality improved, the percent of children with decreased lung function was cut in half,[15] and children with asthma were 30% less likely to experience symptoms of bronchitis.[16]
- The temporary closure of a steel mill in Utah Valley was linked to temporary improvements in birth outcomes and respiratory health. One study found that rates of premature birth were significantly lower among women who were pregnant while the mill was closed than among women who were pregnant before or after the closure.[17] Another study found that children's

---

[11] Hendryx M, Luo J, Chen BC. Total and cardiovascular mortality rates in relation to discharges from Toxics Release Inventory sites in the United States. Environ Res. 2014 Aug;133:36-41. doi: 10.1016/j.envres.2014.05.010.

[12] Dickerson AS, Rahbar MH, Han I, Bakian AV, Bilder DA, Harrington RA, Pettygrove S, Durkin M, Kirby RS, Wingate MS, Tian LH, Zahorodny WM, Pearson DA, Moyé LA 3rd, Baio J. Autism spectrum disorder prevalence and proximity to industrial facilities releasing arsenic, lead or mercury. Sci Total Environ. 2015 Dec 1;536:245- 51. doi: 10.1016/j.scitotenv.2015.07.024.

[13] deCastro BR. Acrolein and asthma attack prevalence in a representative sample of the United States adult population 2000-2009. PLoS One. 2014 May 9;9(5):e96926. doi: 10.1371/journal.pone.0096926. eCollection 2014.

[14] Hendryx M, Luo J. Cancer hospitalizations in rural-urban areas in relation to carcinogenic discharges from Toxics Release Inventory facilities. Int J Environ Health Res. 2013;23(2):155-69. doi: 10.1080/09603123.2012.708919

[15] Gauderman WJ, Urman R, Avol E, Berhane K, McConnell R, Rappaport E, Chang R, Lurmann F, Gilliland F. Association of improved air quality with lung development in children. N Engl J Med. 2015 Mar 5;372(10):905-13. doi: 10.1056/NEJMoa1414123

[16] Berhane K, Chang CC, McConnell R, Gauderman WJ, Avol E, Rapapport E, Urman R, Lurmann F, Gilliland F. Association of Changes in Air Quality With Bronchitic Symptoms in Children in California, 1993-2012. JAMA. 2016 Apr 12;315(14):1491-501. doi: 10.1001/jama.2016.3444.

[17] Parker JD, Mendola P, Woodruff TJ. Preterm birth after the Utah Valley Steel Mill closure: a natural experiment. Epidemiology. 2008 Nov;19(6):820-3. doi: 10.1097/EDE.0b013e3181883d5d.

hospital admissions for pneumonia, bronchitis and asthma were two to three times higher when the mill was opened than when it was closed.[18]

- Federal regulations on leaded gasoline resulted in a dramatic decrease in blood lead levels in children across the country.[19] The Center for Disease Control and Prevention has concluded that there is no safe level of lead exposure due to its impacts on brain development. Because lead exposure comes from many sources, scientists were not sure of the extent to which lead from paint and gasoline were responsible for high blood lead levels in children until they were able to observe the effect of these regulations.

Other considerations

In attempting to estimate the economic and health burden of toxic air contaminant emissions in Oregon, there are several additional points worth considering:

- A portion of the health costs of toxic air contaminant emissions are currently externalized. People who are not employed by a facility, but who live, go to school, or work near a facility emitting pollutants above proposed Risk Action Levels may bear the health burden of pollution exposure without experiencing the economic benefit a facility may have from exceeding Risk Action Levels.
- Many of the broader social costs of disease are particularly difficult to quantify. For example, indirect costs of asthma hospitalization include missed days of work and school; indirect costs of neurodevelopmental delays include lost lifetime earning potential, social isolation, and caregiver time; indirect costs of fetal heart malformation often include increased risk of secondary health effects.
- Risk-based toxic air contaminant permitting regulations could also significantly improve the health of workers, resulting in lower health care costs and more productive workers. Workplace exposure standards are typically not entirely health-based.

Negative impacts on the public

The proposed rules could have negative economic effects on the public if facilities providing jobs and contributing to local economies were to curtail production or close in response to regulatory requirements. LRAPA, DEQ and OHA recognize that employment plays a key role in public health, and that negative economic impacts through job loss could occur despite proposed provisions to allow business flexibility and decrease the chances of business closures or employee layoffs in direct response to regulations.

Some of the same provisions that mitigate impacts on small businesses can potentially mitigate public impacts from lower employment. Under the draft rules, facilities above Risk Action

---

[18] Pope CA 3rd.Respiratory disease associated with community air pollution and a steel mill, Utah Valley. Am J Public Health. 1989 May;79(5):623-8.

[19] EPA, History of Reducing Air Pollution from Transportation in the United States https://www.epa.gov/air-pollution-transportation/accomplishments-and-success-air-pollution-transportation

Levels may wait for effective control technologies to develop if none are available at the time of permitting, unless their risk is above the Risk Reduction Level. Facilities demonstrating a lack of financial ability to install the needed controls at the time required could postpone installation of controls to reduce risk. The proposed tiered implementation will delay potential impacts to many facilities. However, business decisions are influenced by many factors, and LRAPA therefore lacks information to predict specific potential impacts to employment that would adversely affect the public.

The proposed rules could affect the public indirectly if businesses alter the price of goods and services in response to increased base or activity permit fees or the cost to comply with Cleaner Air Oregon rules. DEQ and LRAPA expect any such price increases to be small, but lacks available information to estimate potential increases accurately.

Citizens may also be impacted by the need to participate in public meetings, including time to research and understand potential toxic air contaminant health concerns and risk assessment and permitting issues, and time spent preparing communications and attending meetings. LRAPA is not able to quantify the time and fiscal impact on public process participants, but recognizes that time spent may impact members of the public and require time away from work, childcare, travel or other expenses.

Impacts on the environmental services sector

The direct cost of complying with regulations can result in increased employment in the environmental services sector. For example, an environmental regulation could mean more jobs for those engaged in environmental consulting and pollution abatement. Further, it is possible that regulations may produce more labor-intensive production processes. Studies of national air quality regulations have shown positive effects on overall economic health. The Clean Air Act's public health safeguards encourage technology investments that can have positive economic effects on the public.

General impacts to businesses from environmental regulations

Although in the short term new environmental regulations can have some positive and negative impacts on employment in different sectors, studies indicate that those impacts are limited and that the overall effect of environmental regulations on reported job shift events are extremely minor compared to other factors, such as overall economic growth, business cycles, and changes in technology.[20]

A peer-reviewed study by economists at Resources for the Future, a nonpartisan Washington, D.C. think tank, examined the impact of environmental compliance costs on employment in four regulated industries (pulp and paper, refining, iron and steel, and plastics). They concluded that increased environmental spending generally does not cause a significant change in employment. [21] Another peer-reviewed study published in the Journal of Public Economics found no evidence that stringent

[20] http://econweb.ucsd.edu/~elib/berman_bui2001

[21] https://www.epa.gov/clean-air-act-overview/clean-air-act-and-economy#_edn10

local air quality regulation substantially reduced employment in the Los Angeles basin over a 13-year period of "sharply increased" regulation.

Fiscal Advisory Committee

DEQ appointed a fiscal advisory committee for help with the development of the Cleaner Air Oregon toxic air contaminant permitting program and review of this fiscal impact statement, which describes the fiscal and economic impacts of the May 2018 second draft of the Cleaner Air Oregon proposed rules. The committee included representatives from Lane County, including health, business, county government and public representatives. DEQ convened the fiscal advisory committee on May 9, 2018 to ask for the committee's input and recommendations on fiscal impact issues stated in ORS 183.333:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 to reduce that impact.

DEQ sought comments and discussion on the entire fiscal impact analysis, not just the changes made since the first fiscal impact analysis was reviewed in August 2017. However, much of the May 9, 2018 discussion focused on changes, since most members had familiarity with and a previous opportunity to comment on the first fiscal analysis. Advisory committee members had the opportunity to submit additional written comments on the draft fiscal statement until May 30, 2018.

Would the draft rule have a fiscal impact?

The committee reviewed the draft fiscal and economic impact statement and no committee members objected to DEQ's finding that there would be a fiscal impact to businesses. One member stated that there would be significant costs to large businesses and businesses of any size.

What would the extent of the impact be?

Pollution Control Costs

Some committee members noted that DEQ had improved the detail in the pollution control equipment cost table but indicated that costs to business could be larger than the ranges included in the draft fiscal impact statement.

One member recommended inclusion of costs that DEQ estimated between 2006 and 2009 for mercury and regional haze control at Oregon's one coal-fired power plant in Boardman, Oregon. A description of pollution control equipment costs for wet and semi dry scrubbers with mercury controls for that facility is now included in Table 8. However, the Boardman coal-fired power plant is mandated by rule to close in 2020, and Oregon statutes phasing out coal-fired power mean that new coal-fired power plants in Oregon (with attendant high pollution control costs) are unlikely.

Fees

Committee members discussed the then-proposed Cleaner Air Oregon base and activity fees. Fees would be a significant part of the cost of the program from an industry perspective.

Members asked whether, if a facility submitted TBACT determinations for multiple identical units, DEQ (and LRAPA) would charge multiple TBACT determination activity fees. In response, DEQ has added language to the proposed rules to allow one TBACT/TLAER activity fee to be charged if there were multiple similar emission units with the same pollution control device. The draft rules also state that if one emission unit required two different pollution control devices because it emitted different types of toxic air contaminants, then two TBACT/TLAER fees could be charged.

Members also asked whether DEQ had analyzed the differences between fees proposed for the first public comment period and those in the currently proposed rules. DEQ added and removed several fees. Table 13 below illustrates the LRAPA currently proposed fees, compared to those proposed during the first public comment period, for several hypothetical facility scenarios. These are identical to the fees adopted by the EQC. The committee was also interested in what percentages of program costs are covered by base vs. activity fees. DEQ added that information to the fee analysis section of the public notice.

Members discussed the then-proposed source test review fee of $5,900, asking if it would be the same for Title V facilities and smaller facilities, and whether it would be a one-time charge for one test or multiple charges for multiple tests. In written comments, one member requested that if a source is conducting multiple source tests that it only be charged one fee. Some felt that this fee level would be a very large burden for a small facility. DEQ explained that in the current permitting program there is no source test fee and there is a backlog of source tests to review for the 1.5 FTE assigned to this task. LRAPA also has a current backlog of source tests to review for the approximately 0.4 FTE assigned to this task. To ensure adequate resources for source test review in Cleaner Air Oregon, DEQ proposed a separate fee that was included in the rules adopted by the EQC.

To mitigate impacts to both large and small businesses, DEQ created separate tiers for the source test fee, for complex ($6,000) reviews of multiple emission units and toxic air contaminants, moderate ($4,200) reviews for a single emission unit with multiple toxic air contaminant test methods, and simple ($1,400) source tests for single emission units with a single toxic air contaminant test method. Smaller facilities may have less complex source testing, and if so, this change would reduce the economic burden from this fee. LRAPA proposes to adopt these same tiers.

A member also stated that it would be clearer to call this fee a stack test fee rather than a source test fee. DEQ and LRAPA opted to maintain the language “source test fee” because while many facilities would be source testing emission stacks, some would be source testing other emission points within their processes.

Members asked about the potential extent of community engagement, especially in areas with fewer public participants where costs could be lower. Some stated that the community engagement fee should be lower because it should only cover the cost of notifying people of a meeting and holding the meeting. Others commented that the $10,800 community engagement fee is appropriate for all levels of permit, as it will serve as an incentive for pollution reduction. In setting public meeting fees DEQ sought to arrive at an average amount estimated to run public meetings. Some will likely require more resources and others will likely require less. Another member commented that the proposed 1.5 kilometer distance for public notification is unnecessarily large and a less costly process would be to limit notification to areas impacted by a facility’s emissions. DEQ and LRAPA have

declined to make this change in regulations because source modeling generally shows that 1.5 km is the distance from facilities at which the concentrations fall off sharply. In addition, community notification on a scale smaller than 1.5 kilometers may be ineffective to engage members of the community who may be impacted and interested.

Table 13 Cleaner Air Oregon Specific Activity Fee Examples							
Example	**Call-In Fee**	**Risk Assess-ment Fee**	**Risk Reduction or Ambient Monitoring Fee**	**TBACT Fee**	**Community Engagement Fee**	**Incomplete Application or Postponement of Risk Reduction Fee**	**Total**
Examples for Facilities Applying for CAO Toxic Air Contaminant Permit Addendums							
An existing facility with a General ACDP permit performs a Level 2 Risk Assessment using AERSCREEN and can screen out below Risk Action Levels as de minimis	$500	$2,000	NA	NA	NA	NA	$2,250
An existing facility with a Title V permit performs a Level 3 Risk Assessment using AERMOD and can screen out below Source Permit Levels as de minimis	$10,000	$8,800	NA	NA	NA	NA	$18,800
An existing facility with a Title V permit performs a Level 3 Risk Assessment using AERMOD, is above de minimis and is permitted to stay below the TBACT Level	$10,000	$19,900	NA	NA	$8,000	NA	$37,900
An existing facility with a Standard ACDP permit performs a Level 4 Risk Assessment and applies for a Risk Reduction Plan that requires 1 TBACT determination, but submits an incomplete application and LRAPA must modify application	$10,000	$25,800	$6,700	$3,000	$8,000	$2,500	$56,000
An existing facility with a Title V permit performs a Level 4 Risk Assessment and has TBACT on 3 TEUs but requests postponement of risk reduction on 1 TEU	$10,000	$34,600	NA	$12,000	$8,000	$4,400	$69,000

Table 13
Cleaner Air Oregon Specific Activity Fee Examples

Example	Call-In Fee	Risk Assess-ment Fee	Risk Reduction or Ambient Monitoring Fee	TBACT Fee	Community Engagement Fee	Incomplete Application or Postponement of Risk Reduction Fee	Total
Examples for Facilities Applying for CAO Toxic Air Contaminant Permit Addendums							
An existing facility with a Standard ACDP permit requests ambient monitoring plan option at Level 4	$10,000	$25,800	$25,900	NA	$8,000	NA	$69,700
Examples for Facilities with Existing CAO Toxic Air Contaminant Permit Addendums							
An existing facility with a Simple ACDP requests approval of one new de minimis TEU. Potential risk stays below Risk Action Level. Already has Toxic Air Contaminant Permit Addendum (no modeling required).	NA	$500	NA	NA	NA	NA	$500
An existing facility with a Standard ACDP requests approval of two new TEUs that require a permit modification but potential risk stays below Risk Action Level. Already has Toxic Air Contaminant Permit Addendum (no modeling required).	NA	$8,000	NA	NA	NA	NA	$8,000

Would the draft rules have a significant adverse impact on small businesses, and if so, what are recommendations for potential mitigation?

After discussing potential economic impacts to small businesses and the process of reviewing DEQ's fiscal impact statement, the facilitator polled the committee to determine how many members thought that Cleaner Air Oregon could cause a significant adverse economic impact on small businesses. Out of the 17 members and 2 co-chairs present, eleven indicated that the draft rules could cause a significant impact on small business, seven abstained, and one did not indicate a significant impact. Several members commented on the difficulty of answering fiscal impact questions.

The committee proceeded to discuss the types of economic impacts and potential mitigation measures. One member stated in their written comments that economic mitigation measures and off ramps should not be available to small businesses posing significant health risk. Others noted that innovative ideas for mitigation of small business impacts could help more facilities move past the need for the financial hardship or postponement of risk reduction process. DEQ noted the challenges of determining economic impacts because levels of risk and response actions are not yet known.

DEQ summarized the then-proposed rule options for the mitigation of economic impact on small businesses. At the time of the August 2018 fiscal committee meeting these included:

- Higher risk action levels that would cause more facilities to screen out or have less stringent requirements to reduce emissions
- Tiered implementation of the program which would delay regulatory costs for most smaller businesses
- Additional time for compliance with risk levels through extensions and postponement proposals
- DEQ doing level 1 risk assessments for sources on General and Basic Air Contaminant Discharge Permits
- Process to allow postponement of risk reduction requirements based on financial hardship
- DEQ and OHA staff positions for technical assistance

A member commented that since there is no indication that fees can be waived or reduced for small businesses, there would be a logical assumption that fees would impact smaller businesses more greatly than they would impact larger businesses. Several members agreed that there could be a significant economic impact on small businesses operating on low profit margins. Another member said that the state is now proposing to require that people who put toxics in the environment assume some of the externalized costs for those actions.

A member with experience managing a colored art glass manufacturer noted that compliance with the colored art glass rules caused very significant impacts on those small businesses. They wanted to do everything right and it almost put them out of business. The cost of engineering and consultants was less than what it took to operate the pollution control equipment. Capital cost recovery will take over ten years with an aggressive payback schedule for the loan necessary to buy and install the

equipment. Normally the business would budget between 5 and 8 percent for maintenance of equipment, but for pollution control equipment, that should be increased to 20 to 22 percent annually of the cost of the original equipment.

The committee-generated options for small business mitigation followed by DEQ and LRAPA evaluation were as follows:

- Lower base fees for small business.
    - Cleaner Air Oregon base fees are a percentage of existing permit base fees. Smaller facilities with few emissions units are on General or Basic Air Contaminant Discharge Permits, with lower base fees so their CAO base fee would also be low.
- Include options for fee payment flexibility or installment payments.
    - LRAPA determined that there is existing authority and guidance available for sources who want to request a fee installment payment plan.
- Allowing small businesses of equal risk with large businesses to come later in the call in schedule.
    - General permittees are highly unlikely to pose significant health risk from emissions of air toxics, and if they do, LRAPA would propose changes to the overall general permits, rather than to each source to mitigate risk. However, DEQ and LRAPA have declined to categorically delay call in for other permitted small businesses that could pose significant health risk because this would prevent DEQ and/or LRAPA from achieving the intended public health protection purpose of these rules.

- Stage fees for small businesses to come at the most convenient times, earlier in the fiscal year is better (avoid the last fiscal quarter, line up with tax year.)
    - LRAPA plans to further consider implementation of this recommendation, which would not require any changes to Cleaner Air Oregon rules.

- Develop a mitigation program to directly assist small businesses. Set up small business assistance centers at universities. They could form a consortium and small businesses could pay a reduced fee and have their situation evaluated by students and professors.
    - In addition to providing technical assistance, DEQ and LRAPA plan to explore options for considering and involving universities and forming a consortium to assist small businesses with technical analysis and emission reduction actions.

- DEQ and LRAPA could help coordinate engineering and risk assessment support. Similar industries may be able to reuse each other's work. This would reduce time and cost for subsequent sources. Similar types of businesses will use similar types of designs. There could be leveraging of expertise and information by process components or source categories. To handle concerns about proprietary information and competition use non-disclosure agreements.
    - Similar to the recommendation on involving universities, DEQ and LRAPA plan to further explore this option to facilitate coordination and sharing of engineering and risk assessment information. In Lane County, this work would be led by the LRAPA Cleaner Air Oregon technical assistance position(s).

- Look into how loan programs or consolidation of loan opportunities could work for small businesses in Cleaner Air Oregon.
    - Through technical assistance and other resources, DEQ plans to further explore this recommendation for development of loan programs to small businesses impacted by Cleaner Air Oregon. LRAPA will evaluate a similar program or sources may be able to use DEQ's program.

- Use a model like the small business association to coordinate financing and funding. This could get some facilities off of the inability to pay list.
    - Through technical assistance and other resources, DEQ plans to further explore this recommendation for coordination of financing and funding for small businesses impacted by Cleaner Air Oregon. LRAPA will evaluate a similar program or sources may be able to use DEQ's program.

- Call in businesses at least 6 months in advance so they can work on their budgets and chart out their resources to get ready.
    - LRAPA will consider providing all businesses as much time as possible to respond to Cleaner Air Oregon requirements.

- Consider mitigation measures for new small businesses that will have the more stringent CAO new business risk action levels.
    - New small businesses will have the opportunity to design processes that meet the more stringent new source risk action levels, and LRAPA plans to provide technical assistance to these sources. However, DEQ and LRAPA have declined to categorically exempt small businesses from new source risk action levels because this would prevent DEQ and/or LRAPA from achieving the intended public health protection purpose of these rules.

Impacts on the Public

A member commented that proposed Cleaner Air Oregon regulations would have a positive economic impact on the public, providing more information, more certainty of conditions that could affect health, and a better assurance of health. It is important to measure health outcomes to make a real assessment of health impacts. Another member commented that the section on negative impacts on public health including potential effects on jobs appeared defensive because the description of impacts was followed directly by a description of factors that would mitigate economic impacts on business. A member asked whether employment is the only indicator of public health and DEQ clarified that it was not, the fiscal analysis contains a section discussing the potential relationships between reducing toxic air contaminants and disease. DEQ also noted that uncertainty exists in both impacts to businesses and impacts on the public.

Advisory committee members' comments are further summarized in written meeting minutes, and an audio recording of the meeting when they discussed the program's fiscal impact is also available upon request.

Housing cost

To comply with ORS 183.534, DEQ and LRAPA determined the then-proposed rules may have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. The costs of additional permits, pollution control or process equipment, and compliance could be passed through by businesses providing products and services for such development and construction. The possible impact of these proposed changes appears to be minimal. LRAPA cannot quantify the impact at this time because the available information does not indicate whether the costs would be passed on to consumers and any such estimate would be speculative.

Documents relied on for fiscal and economic impact

Document title	Document location
DEQ Air Contaminant Discharge Permits – OAR 340-216-8010 Table 1	https://secure.sos.state.or.us/oard/view.action?ruleNumber=340-216-8010
DEQ Staff Report to the EQC for the Cleaner Air Oregon rulemaking dated November 15, 2018	https://www.oregon.gov/deq/EQCdocs/11152018_ItemG_CAOReport.pdf
LRAPA Air Contaminant Discharge Permits – Title 37, Section 37-8010 Table 1: Activities and Sources	http://or-lanerapa.civicplus.com/DocumentCenter/View/264/Title-37---Table-1-PDF?bidId=
Air & Waste Management Association Fact Sheet: Air Pollution Emission Control Devices for Stationary Sources, April 2007	http://events.awma.org/files_original/ControlDevicesFactSheet07.pdf
EPA Air Pollution Control Cost Manual, Report No. 452/B-02-001, December 1995, Section 5, Chapter 1, SO_2 and Acid Gas Controls	http://www.epa.gov/ttn/catc/dir1/cost_toc.pdf
EPA Air Pollution Control Cost Manual, Report No. 452/B-02-001, January 2002, Section 6, Chapter 1, Baghouses and Filters	http://www.epa.gov/ttn/catc/dir1/cost_toc.pdf
EPA Air Pollution Control Cost Manual, Report No. 452/B-02-001, September 1999, Section 6, Chapter 3, Electrostatic Precipitators	https://www3.epa.gov/ttn/ecas/docs/cs6ch3.pdf
EPA Health and Environmental Effects of Hazardous Air Pollutants	https://www.epa.gov/haps/health-and-environmental-effects-hazardous-air-pollutants
EPA Technical Bulletin Choosing an Adsorption System for VOC: Carbon, Zeolite, or Polymers? May 1999	https://www3.epa.gov/ttncatc1/cica/files/fadsorb.pdf
EPA Pollution Control Technology Fact Sheet Spray-Chamber/Spray-Tower Wet Scrubber, EPA-452/F-03-016	https://www3.epa.gov/ttncatc1/cica/files/fsprytwr.pdf
EPA Air Pollution Control Technology Fact Sheet Catalytic Incinerator, EPA-452/F-03- 018	https://www3.epa.gov/ttncatc1/cica/files/fcataly.pdf
EPA Air Pollution Control Technology Fact Sheet Regenerative Incinerator, EPA- 452/F-03-021	https://www3.epa.gov/ttncatc1/cica/files/fregen.pdf
EPA Air Pollution Control Technology Fact Sheet Thermal Incinerator, EPA-452/F-03- 022	https://www3.epa.gov/ttncatc1/cica/files/fthermal.pdf
EPA Air Pollution Control Technology Fact Sheet, Paper/Nonwoven Filter – High Efficiency Particle Air (HEPA) Filter, EPA-452/F-03-023	https://www3.epa.gov/ttncatc1/cica/files/ff-hepa.pdf
EPA Pollution Control Technology Fact Sheet Fabric Filter – Mechanical Shaker Cleaned Type, EPA-452/F-03-024	https://www3.epa.gov/ttncatc1/cica/files/ff-shaker.pdf

Document title	Document location
EPA Air Pollution Control Technology Fact Sheet Dry Electrostatic Precipitator (ESP) – Wire-Plate Type, EPA-452/F-03-028	https://www3.epa.gov/ttncatc1/cica/files/fdespwpl.pdf
EPA Air Pollution Control Technology Fact Sheet Permanent Total Enclosures (PTEs), EPA-452/F-03-033	https://www3.epa.gov/ttncatc1/cica/files/fpte.pdf
EPA The Clean Air Act and the Economy	https://www.epa.gov/clean-air-act-overview/clean-air-act-and-economy#economy
Analytical Components of the Benefits and Costs of the Clean Air Act 1990-2020, the Second Prospective Study	https://www.epa.gov/clean-air-act-overview/analytical-components-benefits-and-costs-clean-air-act-1990-2020-second
Air Toxics Case Study – Health Benefits of Benzene Reduction in Houston, 1990-2020	https://www.epa.gov/sites/production/files/2015-07/documents/812caaa_benzene_houston_final_report_july_2009.pdf
EPA AP-42, Chapter 12.20 Electroplating 07/1996	https://www3.epa.gov/ttnchie1/ap42/ch12/final/c12s20.pdf
EPA Integrated Risk Information System	https://www.epa.gov/iris
ATSDR Toxics Substances Portal	https://www.atsdr.cdc.gov/toxprofiles/index.asp
California Office of Environmental Health Hazard Assessment. Air Toxics Hot Spots Program Technical Support Document for the Derivation of Noncancer Reference Exposure Levels. Dec, 2008	_https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-technical-support-document-derivation
OHA. 2016. Leading Causes of Death	http://public.health.oregon.gov/ProviderPartnerResources/PublicHealthAccreditation/Documents/indicators/leadingcausesofdeath.pdf
OHA, 2010. Estimated medical treatment costs of chronic diseases, Oregon 2010.	http://www.oregon.gov/oha/PH/DISEASESCONDITIONS/CHRONICDISEASE/DATAREPORTS/Documents/datatables/CDCC_2010.pdf
Oregon Vital Records	http://www.oregon.gov/oha/PH/BIRTHDEATHCERTIFICATES/VITALSTATISTICS/Pages/index.aspx
National Birth Defects Prevention Network, 2016	https://www.nbdpn.org/ar.php
Landrigan PJ, Schechter CB, Lipton JM, Fahs MC, Schwartz J. Environmental pollutants and disease in American children: estimates of morbidity, mortality, and costs for lead poisoning, asthma, cancer, and developmental disabilities.	Environ Health Perspect. 2002 Jul;110(7):721-8
Weiland K, Neidell M, Rauh V, Perera F. Cost of developmental delay from prenatal exposure to airborne polycyclic aromatic hydrocarbons.	J Health Care Poor Underserved. 2011 Feb;22(1):320-9. doi: 10.1353/hpu.2011.0012

Document title	Document location
Hendryx M, Fedorko E. The relationship between toxics release inventory discharges and mortality rates in rural and urban areas of the United States	J Rural Health. 2011 Winter;27(4):358-66. doi: 10.1111/j.1748-0361.2011.00367.x
Hendryx M, Luo J, Chen BC. Total and cardiovascular mortality rates in relation to discharges from Toxics Release Inventory sites in the United States.	Environ Res. 2014 Aug;133:36-41. doi: 10.1016/j.envres.2014.05.010.
Dickerson AS, Rahbar MH, Han I, Bakian AV, Bilder DA, Harrington RA, Pettygrove S, Durkin M, Kirby RS, Wingate MS, Tian LH, Zahorodny WM, Pearson DA, Moyé LA 3rd, Baio J. Autism spectrum disorder prevalence and proximity to industrial facilities releasing arsenic, lead or mercury.	Sci Total Environ. 2015 Dec 1;536:245- 51. doi: 10.1016/j.scitotenv.2015.07.024.
deCastro BR. Acrolein and asthma attack prevalence in a representative sample of the United States adult population 2000-2009.	PLoS One. 2014 May 9;9(5):e96926. doi: 10.1371/journal.pone.0096926. eCollection 2014.
Hendryx M, Luo J. Cancer hospitalizations in rural-urban areas in relation to carcinogenic discharges from Toxics Release Inventory facilities.	Int J Environ Health Res. 2013;23(2):155-69. doi: 10.1080/09603123.2012.708919
Gauderman WJ, Urman R, Avol E, Berhane K, McConnell R, Rappaport E, Chang R, Lurmann F, Gilliland F. Association of improved air quality with lung development in children.	N Engl J Med. 2015 Mar 5;372(10):905-13. doi: 10.1056/NEJMoa1414123
Berhane K, Chang CC, McConnell R, Gauderman WJ, Avol E, Rapapport E, Urman R, Lurmann F, Gilliland F. Association of Changes in Air Quality With Bronchitic Symptoms in Children in California, 1993-2012.	JAMA. 2016 Apr 12;315(14):1491-501. doi: 10.1001/jama.2016.3444.
Parker JD, Mendola P, Woodruff TJ. Preterm birth after the Utah Valley Steel Mill closure: a natural experiment.	Epidemiology. 2008 Nov;19(6):820-3. doi: 10.1097/EDE.0b013e3181883d5d.
Pope CA 3rd.Respiratory disease associated with community air pollution and a steel mill, Utah Valley.	Am J Public Health. 1989 May;79(5):623-8.
EPA, History of Reducing Air Pollution from Transportation in the United States	https://www.epa.gov/transportation-air-pollution-and-climate-change/accomplishments-and-success-air-pollution-transportation
Berman E, T.M. Bui L, Environmental regulation and labor demand: evidence from the South Coast Air Basin	http://econweb.ucsd.edu/~elib/berman_bui2001

Document title	Document location
The Clean Air Act and the Economy	https://www.epa.gov/clean-air-act-overview/clean-air-act-and-economy

Federal Relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require LRAPA to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

LRAPA is proposing fees for EQC-adopted rules that are in addition to federal requirements because regulatory gaps exist in the current rules. This has allowed for significant localized health risks from exposure to industrial and commercial emissions, and made clear the need to both improve the level of scientific knowledge about exposure and develop a systematic way to reduce risk from exposure. The rules adopted under Cleaner Air Oregon will allow LRAPA to continue to improve its knowledge and DEQ and OHA's knowledge about toxic air contaminant emissions from facilities. The EQC-adopted rules provide a predictable and science-based framework to better control toxic air contaminants with a focus on areas and facilities that may pose the highest risk to human health.

What alternatives did LRAPA consider if any?

In designing LRAPA's rule revisions to address the newly-adopted Cleaner Air Oregon rules, LRAPA is proposing to make changes identical to those adopted by the EQC so businesses can expect definitions, fees, enforcement procedures, and public participation requirements in LRAPA rules that are consistent with DEQ rules.
(http://www.oregon.gov/deq/Regulations/rulemaking/Pages/Rcleanerair2017.aspx)

Land Use

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require LRAPA to determine whether the proposed rules would significantly affect land use. If so, LRAPA must explain how the proposed rules would comply with statewide land use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers rules to affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
    - Resources, objectives or areas identified in the statewide planning goals, or
    - Present or future land uses identified in acknowledged comprehensive plans

To determine whether the proposed rules involve programs or actions that affect land use, DEQ reviewed its Statewide Agency Coordination plan, which describes the DEQ programs that have been determined to significantly affect land use. DEQ considers its programs to specifically relate to the following statewide goals:

Goal	Title
5	Open Spaces, Scenic and Historic Areas, and Natural Resources
6	Air, Water and Land Resources Quality
9	Ocean Resources
11	Public Facilities and Services
16	Estuarial Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

For this proposed rulemaking, LRAPA uses the same DEQ review and considerations as were in the staff report for Cleaner Air Oregon.

Determination

LRAPA determined that the following proposed rules, listed under the Rules affected, authorities, supporting documents section above, are existing rules that affect programs or activities that the DEQ State Agency Coordination Program considers a land use program:

- LRAPA Title 37 – Air Contaminant Discharge Permits
- OAR 340-218 – Oregon Title V Operating Permits

This rule proposal does not include any changes to land use procedures in the air quality permitting program. The proposed regulations would be consistent with state land use law because any facility

that has received a Cleaner Air Oregon permit addendum will already have demonstrated land use compliance when they obtained or will obtain their underlying Air Quality permit. The air quality permit programs require that a new business provide a Land Use Compatibility Statement from local government when applying for a permit. This assures that the business has an approved use for the property where it is located. Existing permittees have provided Land Use Compatibility Statements, which are on file with LRAPA. There may be businesses that would be required to get air quality permits only as a result of Cleaner Air Oregon. These businesses would also be required to submit a Land Use Compatibility Statement from local government when applying for an Air Contaminant Discharge Permit.

DEQ's statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules.

- OAR 340-018-0040(1) - compliance with statewide planning goals achieved by ensuring compatibility with acknowledged comprehensive plans
- OAR 340-018-0050(2)(a) - ensuring compatibility with acknowledged comprehensive plans may be accomplished through a Land Use Compatibility Statement.

Advisory Committee

Background

DEQ convened the Cleaner Air Oregon Rules Advisory Committee. The committee included representatives from Lane County, including health, business, county government and public representatives. The committee met eight times. Advisory committee members are listed in the table below and additional information is available on the committee's web page, located at: http://www.oregon.gov/deq/Regulations/rulemaking/Pages/Rcleanerair2017.aspx. Highlighted names are those committee members from Lane County.

CAO Rulemaking Advisory Committee	
Name	**Representing**
Jackie Dingfelder, Co-chair	Cleaner Air Oregon Rules Advisory Committee
Claudia Powers, Co-chair	Cleaner Air Oregon Rules Advisory Committee
Akash Singh (alternates: Jo Ann Hardesty, Tony DeFalco)	National Association for the Advancement of Colored People/Neighbors for Clean Air
Al Hooton	Glass Alchemy
Diana Rohlman (alternate: Susan Katz)	Oregon Public Health Association
Gordon Zimmerman (alternate: Tracy Rutten)	City of Cascade Locks
Huy Ong (alternates: Dayna Jones, Shawn Fleek)	Organizing People/Activating Leaders
Jay Bozevich (alternate: Kelly Minty Morris)	Lane County
Jessica Applegate (alternate: Katharine Saltzmann)	Eastside Portland Air Coalition
Joel Fischer (alternate: Larry Burke, Ellen Porter)	Oregon Business Association
Josh Hall	United Steelworkers
Kathryn VanNatta	Northwest Pulp and Paper Association
Laura Seyler (alternate: Glenn Rives)	International Paper Springfield Mill
Lee Fortier (alternate: Laura Leebrick)	Dry Creek Landfill, Inc.
Linda George (alternate: Dean Atkinson)	Portland State University
Lisa Arkin (alternates: Krystal Abrams, Ana Molina, Joel Iboa)	Beyond Toxics
Mark Riskedahl (alternates: Joel Nigg, Maura Fahey, Licia Sahagun)	Northwest Environmental Defense Center
Mary Peveto (alternate: Tori Cole)	Neighbors for Clean Air
Michael Freese (alternates: Gary Rehnberg, Abbie Laugtug)	Associated Oregon Industries
Patrick Luedtke (alternate: Donna Garner)	Community Health Centers of Lane County
Paul Lewis (alternate: Jae Douglas)	Multnomah County
Ramona Quinn	Klamath County
Steven Anderson (alternates: Courtney Vanbragt, Evan Sorce)	City of Salem Neighborhood Associations

Susan Anderson (alternates: Christine Kendrick, Elizabeth Edwards)	City of Portland Bureau of Planning and Sustainability
Thomas Wood	Oregon Business and Industry

Meeting notifications

To notify people about the advisory committee's activities, DEQ:

- Sent email notification via GovDelivery, a free e-mail subscription service, to the following lists:
    - Rulemaking
    - News Releases
    - Toxics Reduction Strategy
    - Air Toxics Statewide
    - Portland Air Toxics Solutions
    - Air Quality 2016 Permanent Rulemaking
    - DEQ Public Notices
    - Cleaner Air Oregon Regulatory Overhaul
    - LRAPA interested parties list
    - People who signed up for the advisory committee email list.
- Beginning in April, 2016, DEQ sent approximately 49 notices to subscribers informing them of advisory committee meetings and other rule development information.
- Added advisory committee announcements to DEQ's calendar of public meetings at https://www.oregon.gov/deq/Get-Involved/Pages/Calendar.aspx.

Committee discussions

In addition to the recommendations described under the Amended Statement of Fiscal and Economic Impact section above, the committee provided input and discussion on a regulatory framework for the proposed Cleaner Air Oregon program and discussion draft rules. Agendas and meeting summaries are available on the committee's webpage at: http://www.oregon.gov/deq/Regulations/rulemaking/Pages/Rcleanerair2017.aspx.

EQC prior involvement

DEQ shares general rulemaking information with EQC through the monthly Director's Report.

DEQ shared information about this rulemaking with the EQC through an informational item on the EQC agenda in June 2016, April 2017, July 2017, September 2017, November 2017, March 2018, and September 2018.

LRAPA Citizens Advisory Committee

Background

LRAPA has a standing advisory committee that meets most months. This volunteer committee is made up of local Lane County residents from various backgrounds including: public health, planning, industry, agricultural, fire suppression, and general interest. These individuals meet monthly to discuss air quality topics and help guide the agency and Board of Directors. Throughout the Cleaner Air Oregon rulemaking process the committee discussed the rulemaking at several meetings, either as a specific agenda item, as part of roundtable, or as part of an update on LRAPA Board meetings. Advisory committee members are listed in the table below and

additional information is available on the committee's web page, located at: http://www.lrapa.org/157/Advisory-Committee.

Members

- **Maurie Denner**, Chair
  Representing General Public
- **Chuck Gottfried**, Vice-Chair
  Representing Agriculture
- **Jim Daniels**
  Representing Large Industry
- **Kelly Wood**
  Representing General Public
- **Vacant**
  Representing Public Health
- **Paul Engelking**
  Representing General Public
- **Loren Later**
  Representing General Industry
- **Terry S. Richardson**
  Representing General Public
- **Laura Seyler**
  Representing Large Industry
- **Link Smith**
  Representing Fire Suppression
- **Gary Vander Meer**
  Representing General Public
- **Kathleen Lamberg**
  Representing General Public

DEQ Public Comment Period and Hearings

The following section is information about the public comment period and hearings DEQ held as part of the Cleaner Air Oregon rulemaking. LRAPA will provide opportunity for public comment and a hearing(s) for the changes proposed to existing LRAPA rules to address changes to definitions, enforcement procedures, public participation requriements, ACDP fees and permitting.

DEQ held a public comment period on an earlier draft of the Cleaner Air Oregon rules between October 2017 and January 2018. In March 2018, the Oregon Legislature passed SB 1541, a law that provides funding for completing the rulemaking and beginning program implementation through fees on industry. The bill also set certain program requirements that must be reflected in the rules. The proposed rules were updated as a result of the earlier public comments and SB 1541, and DEQ held a second public comment period between June and August 2018.

During the two public comment periods, DEQ, with OHA and LRAPA, conducted a total of eleven public hearings on the proposed rulemaking that were preceded by informational presentations from DEQ and OHA. In 2017, DEQ accepted public comment on the proposed rulemaking from October 20, 2017 until 4:00 p.m. on January 22, 2018. In 2018, DEQ accepted public comment on the proposed rulemaking from June 25, 2018 until 4:00 p.m. on August 6, 2018. During the 2017 comment period, DEQ received 806 comments from 4,117 people. (Some people submitted identical comments, or submitted letters signed by multiple people.) During the 2018 comment period DEQ received 125 comments from 126 people. In all, DEQ received 931 comments from 4,243 commenters and grouped the suggestions made in those comments into 410 comment categories. DEQ and OHA prepared more than 200 pages of responses to comments.

Presiding Officers' Record

For all of the hearings listed below, the presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. LRAPA staff acted as the presiding officer for the two hearings held in Eugene. The presiding officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices. As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

The Cleaner Air Oregon 2017 hearings occurred as follows:

Hearing 1 - Medford
Date: Wednesday Nov. 15, 2017, 5:30 p.m. - 7:30 p.m.
Location: Ramada Medford Hotel and Conference Center, 2250 Biddle Road, Medford, OR 97504
Attendance and comments: 18 people attended the hearing in person and an unknown number of people attended by webinar. 5 people commented orally and no one submitted written comments at the hearing.

Hearing 2 – Coos Bay
Date: Thursday Nov. 16, 2017, 5:30 p.m. - 7:30 p.m.
Location: Coos Bay Library, 525 Anderson Avenue, Coos Bay, Oregon 97420
Attendance and comments: 47 people attended the hearing in person and an unknown number of people attended by webinar. 6 people commented orally and no one submitted written comments at the hearing.

Hearing 3 - Corvallis
Date: Monday Nov. 20, 2017, 5:30 p.m. - 8 p.m.
Location: Walnut Community Room, 4950 NW Fair Oaks Dr., Corvallis, OR 97330
Attendance and comments: 40 people attended the hearing in person and an unknown number of people attended by webinar. 9 people commented orally and no one submitted written comments at the hearing.

Hearing 4 - Pendleton
Date: Tuesday Nov. 28, 2017, 5:30 p.m. - 7:30 p.m.
Location: Pendleton Library, 502 SW Dorion Ave, Pendleton, OR 97801
Attendance and comments: 8 people attended the hearing in person. 1 person commented orally and no one submitted written comments at the hearing. (There was no webinar)

Hearing 5 - Portland
Date: Wednesday Nov. 29, 2017, 5:30 p.m. - 9:30 p.m.
Location: PCC SE Campus, Community Hall, 2305 SE 82nd, Portland, OR 97216
Attendance and comments: 83 people attended the hearing in person and an unknown number of people attended by webinar. 10 people commented orally and no one submitted written comments at the hearing.

Hearing 6 - Portland
Date: Saturday Dec. 2, 2017, 10 a.m. - 3 p.m.
Location: Oregon Convention Center, Public hearing room C124, 777 NE Martin Luther King Jr Blvd, Portland, OR 97232
Attendance and comments: 48 number of people attended the hearing in person and an unknown number of people attended by webinar. 24 people commented orally and no one submitted written comments at the hearing.

Hearing 7 - Eugene
Date: Thursday Dec. 7, 2017, 5:30 p.m. - 7:30 p.m.,
Location: Oregon Department of Environmental Quality, Willamette Conference Room, 165 E. 7th Ave.

Attendance and comments: 155 people attended the hearing in person and an unknown number of people attended by webinar. 24 people commented orally and no one submitted written comments at the hearing.

Hearing 8 - Salem, in conjunction with the Environmental Justice Task Force
Date: Friday, Dec. 8, 2017, 9 a.m. - 11 a.m.
Location: Department of State Lands Building, 775 Summer Street, NE, Suite 100, Salem, OR 97301
Attendance and comments: 17 people attended the hearing in person and an unknown number of people attended by webinar. 9 people commented orally and no one submitted written comments at the hearing.

Hearing 9 - The Dalles
Date: Thursday, Dec. 14, 2017, 5:30 to 7:30 p.m.
Location: Columbia Gorge Community College Lecture Hall, Building 2, Third floor, 400 East Scenic Drive The Dalles, OR 97058
Attendance and comments: 21 people attended the hearing in person and an unknown number of people attended by webinar. 7 people commented orally and 1 person submitted written comments at the hearing.

The Cleaner Air Oregon 2018 hearings occurred as follows:

Hearing 1 – Portland, in conjunction with the Environmental Quality Commission meeting
Date: Thursday, July 12, 2018, 5 p.m. - 7 p.m.
Location: TaborSpace -5441 SE Belmont Street, Portland, Oregon, 97215
Attendance and comments: 20 people attended the hearing in person and an unknown number of people attended by webinar. 10 people commented orally and no one submitted written comments at the hearing.

Hearing 2 – Eugene
Date: Wednesday, Aug. 1, 2018, 5:30 p.m. – 7:30 p.m.
Location: Lane Community College - Mary Spilde Downtown Center, Rooms 112 through 114, 101 W. 10th Avenue, Eugene, Oregon 97401
Attendance and comments: 34 people attended the hearing in person and an unknown number of people attended by webinar. 9 people commented orally and 1 person submitted written comments at the hearing.

Request for other options

During the public comment periods, DEQ requested public comment on whether to consider other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business. This document includes a summary of comments and DEQ responses.

LRAPA Notice for March 14, 2019 Hearing

At the January 10, 2019 meeting LRAPA received Board approval to hold a hearing on the proposed rules.

Public notice

LRAPA plans to provide notice of the Notice of Proposed Rulemaking with Hearing on Febrauary 1, 2019 by:

- Filing notice with the Secretary of State for publication in the *Oregon Bulletin* to be published in the February 1, 2019 edition;
- Posting notice on the LRAPA Web page: http://www.lrapa.org/calendar.aspx?CID=22
- Emailing approximately 13,373 interested parties on the following DEQ lists through GovDelivery:
    - Rulemaking
    - DEQ Public Notices
    - Cleaner Air Oregon Regulatory Overhaul
    - Air Toxics Statewide
    - Air Quality Permits
    - Title V Permit Program

- Emailing interested parties on the Agency Rulemaking List;
- Emailing the following key legislators required under ORS 183.335:
    - Senator Michael Dembrow, Chair, Senate Environment and Natural Resources Committee
    - Representative Ken Helm, Chair, House Energy and Environment Committee
    - Senate President Peter Courtney
    - House Speaker Tina Kotek

Public hearings
LRAPA plans to hold one public hearing. The table below explains how to participate in the hearing.

Before taking public comment and according to Oregon Administrative Rule 137-001-0030, the presiding officer staff presenter will summarize the content of the notice given under Oregon Revised Statute 183.335 and respond to any questions about the rulemaking.

LRAPA will add the names, addresses and affiliations of all hearing attendees to the interested parties list for this rule if provided on a registration form or the attendee list. LRAPA will consider all oral and written comments received at the hearing listed below before completing

the proposed rule. LRAPA will summarize all comments and respond to comments on the staff report.

Hearing	
Date	March 14, 2019
Time	12:30 p.m.
Address line 1	EWEB Building - Meeting Room in the North Building
Address line 2	500 East 4th Avenue
City	Eugene, OR 97401
Presiding officer	Merlyn Hough, Agency Director
Staff presenter	Max Hueflte, Permitting
Conference number	NA

Close of public comment period

The LRAPA comment period will close on Thursday, March 14, 2019 at 12:30 p.m.
If the LRAPA Board adopts the proposed rules after considering public comments, LRAPA would submit the rules to the EQC for inclusion into Oregon's State Implementation Plan (SIP). If approved by the EQC, the rules would be submitted to the EPA for publishing the changes in the Federal Register and include the changes into the SIP. LRAPA would know the goals of this rulemaking have been addressed when the EQC and EPA review and approve the State Implementation Plan revision.

DEQ Summary of comments and agency responses

Comments received by close of public comment period

DEQ, with OHA, held two public comment periods for Cleaner Air Oregon, from Oct. 20, 2017, to Jan. 22, 2018, and from June 25 to Aug. 6, 2018. During both public comment periods, DEQ received comments via an online form, by email, on paper, and in the form of oral statements at public hearings. DEQ and OHA reviewed each comment and grouped the ideas proposed by each commenter into one or more categories.

Public comments that were received during the two public comment periods in any of these formats are included in Attachment F (starting on page 453 of 1403 in the PDF document here), which provides information about comments, including the name and organization of people who submitted them, the text of the comment, a link to the attachment if the commenter submitted one, and a list of the categories that the agencies linked to that comment. Since there were two public comment periods, Attachment F also indicates in which comment period the comment was received.

Attachment G (starting on page 1115 of 1403 in the PDF document here) provides information about each category, including the category name, a description, whether or not DEQ made changes to the rules to incorporate that suggestion, and a text response from the agencies explaining why we did or did not change the rules to incorporate that suggestion.

LRAPA will summarize and respond to any comments received during the comment period.

Implementation

DEQ Notification

The Cleaner Air Oregon rules in OAR 340 division 245 became effective upon filing on Nov. 16, 2018. DEQ notified affected parties by:

- Posting a notice on the web page for this rulemaking, located at: http://www.oregon.gov/deq/Regulations/rulemaking/Pages/Rcleanerair2017.aspx;
- Emailing approximately 11,320 interested parties on the following DEQ lists through GovDelivery:
  - Rulemaking
  - DEQ Public Notices
  - Cleaner Air Oregon Regulatory Overhaul
  - Air Toxics Statewide
  - Air Quality Permits
  - Title V Permit Program
- Emailing stakeholders on the DEQ's and Lane Regional Air Protection Agency's permitted sources lists.

Compliance and enforcement

DEQ and OHA have developed several supporting documents with information that will assist affected parties in complying with Cleaner Air Oregon. Assistance documents include:

- Draft Recommended Procedures for Conducting Toxic Air Contaminant Health Risk Assessment
- Recommended Procedures for Pollution Prevention
- CAO Air Monitoring Plan Protocol
- Draft Cleaner Air Oregon Initial Facility Call-in Prioritization Protocol
- Toxicity Reference Values and Risk-Based Concentrations- Explanation of Authoritative Sources of Toxicity Reference Values Used in Cleaner Air Oregon
- Toxicity Reference Values and Risk-Based Concentrations in Excel format

In addition, fees under the proposed rules will fund a position that will provide technical assistance to affected parties.

Compliance with permit limits resulting from the implementation of Cleaner Air Oregon is critical to reduce risk to human health from toxic air contaminants. LRAPA will continue to ensure compliance with current practices of inspections, reporting, source testing, parametric monitoring, etc. LRAPA has proposed to update Title 15, Enforcement Procedure and Civil Penalties, to include Cleaner Air Oregon violations.

LRAPA and DEQ are in the process of developing training, business processes, and information technology systems to implement Cleaner Air Oregon.

LRAPA Notification

The LRAPA rules to address the newly-adopted Cleaner Air Orego rules in OAR 340 division 245 will become effective upon approval by EQC at a meeting yet to be determined. LRAPA and DEQ will notify affected parties by:

- Posting a notice on the DEQ CAO web page for this rulemaking, located at: https://www.oregon.gov/deq/aq/cao/Pages/default.aspx
- Posting a notice on the LRAPA web page, located at: http://www.lrapa.org/calendar.aspx?CID=22
- Emailing stakeholders on the DEQ's and Lane Regional Air Protection Agency's permitted sources lists.

Supporting Documents

Documents Relied on for Rulemaking

Document title	Document location
Oregon Administrative Rules	https://www.oregon.gov/deq/Regulations/Pages/Administrative-Rules.aspx
Cleaner Air Oregon Rulemaking Documents	https://www.oregon.gov/deq/Regulations/rulemaking/Pages/Rcleanerair2017.aspx
LRAPA Rules and Regulations	http://www.lrapa.org/205/Rules-Regulations
Portland Air Toxics Study	http://www.oregon.gov/deq/aq/air-toxics/Pages/PATS.aspx
EPA National Air Toxics Assessment	https://www.epa.gov/national-air-toxics-assessment/2011-nata-assessment-results#state
State of Oregon Environmental Justice Task Force Environmental Justice: Best Practices for Oregon's Natural Resource Agencies	http://www.oregon.gov/gov/policy/environment/environmental_justice/Documents/2016%20Oregon%20EJTF%20Handbook%20Final.pdf
EPA EJSCREEN: Environmental Justice Screening and Mapping Tool	https://www.epa.gov/ejscreen
40 CFR Appendix W to Part 51, Guideline on Air Quality Models	https://www3.epa.gov/ttn/scram/appendix_w-2016.htm
EPA, Integrated Risk Information System (IRIS) Reference Concentrations (RfC) and Inhalation Unit Risk (IUR)	www.epa.gov/iris
EPA, Office of Superfund Remediation and Technology Innovation (OSRTI) provisional peer reviewed toxicity value (PPRTV) program (Reference Concentrations (RfCs) and Inhalation Unit Risks (IURs))	https://hhpprtv.ornl.gov/
United States Agency for Toxic Substances and Disease Registry (ATSDR), chronic inhalation Minimal Risk Level (MRL)	www.atsdr.cdc.gov
California's Office of Environmental Health Hazard Assessment (OEHHA), chronic Referenc Exposure Level (REL) and Inhalation Unit Risk (IUR)	www.oehha.ca.gov

DEQ Draft Rules With 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 ~~November 15~~May 16-17, 201~~8~~9.

(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.13

LRAPA Draft Rules With Edits Highlighted

Key to Identifying Changed Text:
~~Deleted Text~~
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 PM_{10} in a PM_{10} 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 "CO_2e" 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 deionzed 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, PM_{10}, $PM_{2.5}$, 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_2e)	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 ~~t~~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 (CO2e)	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~~under 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 ~~t~~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 ~~t~~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 CO_2e, 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.

- "PM_{10}":

  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 (SO_2) 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 PM_{10} 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 ~~t~~Title 42, Plant Site Emission Limits, and ~~t~~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 NOx 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_2e)	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

TABLE 2 LRAPA Title 12 SIGNIFICANT EMISSION RATES FOR POLLUTANTS REGULATED UNDER THE CLEAN AIR ACT		
Row	***Pollutant***	***Emission Rate***
(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/m^3 (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 ($\mu g/m^3$)	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} ($\mu g/m^3$)	Annual	0.20	0.2	0.2
	24-hour	0.30	1.0	1.0
$PM_{2.5}$ ($\mu g/m^3$)	Annual	0.06	0.3	0.3
	24-hour	0.07	1.2	1.2
NO_2 ($\mu g/m^3$)	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 (H_2S).

- "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) parachlorobenzotrifluoride (PCBTF);
(25) cyclic, branched, or linear completely methylated siloxanes;
(26) acetone;
(27) perchloroethylene (tertrachloroethylene);
(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) difluorormethane (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 ($C_4F_9OCH_3$);
(44) 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$);
(45) 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$);
(46) 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$);
(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) $HCF_2 OCF_2 H$ (HFE-134);
(57) $HCF_2 OCF_2 OCF_2 H$ (HFE-236cal2);
(58) $HCF_2 OCF_2 CF_2 OCF_2 H$ (HFE-338pcc13);
(59) $HCF_2 OCF_2 OCF_2 CF_2 OCF_2 H$ (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) $CHF_2CF_2OCH_2CF_3$ (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.
- "O_3" 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.
- "PM_{10}" 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.
- "SO_2" 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 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 x 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. 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 (or days in duration) of the violation;

(iii) 3 if there were from seven to 28 occurrences (or days in duration) of the violation;

(iv) 4 if there were more than 28 occurrences (or days in duration) 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 ~~r~~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 ~~r~~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 ~~r~~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)(vi~~i~~)

(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.

(~~G~~i) Upon request of the ~~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 ~~r~~Respondent can demonstrate that the standard value does not reflect the ~~r~~Respondent's actual circumstance.

(~~H~~ii) 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.

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

(iv~~J~~) 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~~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~~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 is the violation was caused flagrantly.

(3) The civil penalty is calculated using the following formula:

BP + (.1 x 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;

(~~k~~q) 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);

(~~l~~r) 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;

(~~m~~t) 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;

(~~n~~u) 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~~under section 111(d) of the Federal Clean Air Act;

(~~o~~v) Causing emissions that are a hazard to public safety;

(~~p~~w) Violating a work practice requirement for asbestos abatement projects;

(~~q~~x) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;

(~~r~~y) Conducting an asbestos abatement project by a person not licensed as an asbestos abatement contractor;

(~~s~~z) Violating a title 43 disposal requirement for asbestos-containing waste material;

(~~t~~aa) Failing to hire a licensed contractor to conduct an asbestos abatement project;

(~~u~~bb) 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

(~~v~~cc) 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;

(~~i~~j) Failing to comply with the outdoor burning requirements for commercial, construction, demolition, or industrial wastes in violation of title 47;

(~~j~~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);

(~~k~~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;

(~~l~~m) Failing to provide timely, accurate or complete notification of an asbestos abatement project; or

(~~m~~n) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project.~~;~~

(3) Class III

(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.

(~~6~~7) Violation of Emergency Action Plans: Major magnitude in all cases.

(~~7~~8) 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.

(~~8~~9) 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 PM_{10} 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 1are 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.

(~~1~~3) 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

* 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 ~~4~~5. Late Fees:

a. 8-30 days late 5%

b. 31-60 days late 10%

c. 61 or more days late 20%

Part ~~5~~6. 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.

		Permit Type			
#	ACTIVITY	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