

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 34

STATIONARY SOURCE NOTIFICATION REQUIREMENTS

Section 34-005 Definitions

The definitions in title 12 and title 29 and this section apply to this title. If the same term is defined in this section and title 12 or title 29, the definition in this section applies to this title.

Section 34-010 Applicability

- (1) This title applies to air contaminant sources, to stationary sources, and to modifications of existing portable sources that are required to have permits under title 37.
- (2) Except as provided in subsection (2), 34-010 and 34-034 through 34-038 apply to the following:
 - (a) All new sources not otherwise required to obtain a permit under title 37 or OAR 340 division 218. Sources that are required to submit a permit application under title 37 or OAR 340 division 218 are not required to submit a Notice of Construction application under this rule;
 - (b) Modifications at existing sources, including sources that have permits under title 37 or OAR 340 218; and
 - (c) All sources that use air pollution control devices used to comply with emissions limits, or used to avoid the requirement to obtain an LRAPA Title V Operating Permit (OAR 340 division 218) or Major NSR or Type A State NSR (LRAPA title 38) requirements, or MACT standards (LRAPA title 44).
- (3) 34-010 and 34-034 through 34-038 do not apply to the following sources:
 - (a) Agricultural operations or equipment that is exempted by 12-020;
 - (b) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families;
 - (c) Other activities associated with residences used exclusively as dwellings for not more than four families, including, but not limited to barbecues, house painting, maintenance, and groundskeeping;
 - (d) Portable sources, except modifications of portable sources that have permits under title 37 or OAR 340 division 218; and
 - (e) Categorically insignificant activities as defined in title 12 unless they are subject to NESHAP or NSPS requirements. This exemption applies to all categorically insignificant activities whether or not they are located at major or non-major sources.

Section 34-015 Request for Information

All stationary sources must provide in a reasonably timely manner any and all information that LRAPA reasonably requires for the purpose of regulating stationary sources. Such information may be required on a one-time, periodic, or continuous basis and may include, but is not limited to, information necessary to:

- (1) Issue a permit and ascertain compliance or noncompliance with the permit terms and conditions;
- (2) Ascertain applicability of any requirement;
- (3) Ascertain compliance or noncompliance with any applicable requirement; and
- (4) Incorporate monitoring, recordkeeping, reporting, and compliance certification requirements into a permit.

Compliance with this section may require the installation and maintenance of continuous monitors and electronic data handling systems.

Section 34-016 Records; Maintaining and Reporting

- (1) When notified by LRAPA, any person owning or operating a source within the state must keep and maintain written records of the nature, type, and amounts of emissions from such source and other information LRAPA may require in order to determine whether the source is in compliance with applicable emission rules, limitations, or control measures.
- (2) The records must be prepared in the form of a report and submitted to LRAPA on an annual, semi-annual, or more frequent basis, as requested in writing by LRAPA. Submittals must be filed at the end of the first full period after the LRAPA's notification to such persons owning or operating a stationary air contaminant source of these recordkeeping requirements. Unless otherwise required by rule or permit, semi-annual periods are January 1 to June 30, and July 1 to December 31. A more frequent basis for reporting may be required due to noncompliance or if necessary to protect human health or the environment.
- (3) The required reports must be completed on forms approved by LRAPA and submitted within 30 days after the end of the reporting period, unless otherwise authorized by permit.
- (4) All reports and certifications submitted to LRAPA must accurately reflect the monitoring, record keeping and other documentation held or performed by the owner or operator.
- (5) The owner or operator of any source required to obtain a permit under title 37 or OAR 340 division 218 must retain records of all required monitoring data and supporting information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. For the owner or operator of a source permitted under title 37, this requirement took effect on July 1, 2015.

Section 34-017 Enforcement; Credible Evidence

Notwithstanding any other provisions contained in any applicable requirement, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such applicable requirements.

Section 34-020 Information Exempt from Disclosure

- (1) Pursuant to the provisions of ORS 192.311 to 192.363, all information submitted to LRAPA under title 34 shall be presumed to be subject to inspection upon request by any person unless such information is determined to be exempt from disclosure pursuant to subsections (2) or (3).
- (2) If an owner or operator claims that any writing, as that term is defined in ORS 192.311, is confidential or otherwise exempt from disclosure, in whole or in part, the owner or operator shall comply with the following procedures:
 - (a) The writing shall be clearly marked with a request for exemption from disclosure. For a multi-page writing, each page shall be so marked.
 - (b) The owner or operator shall state the specific statutory provision under which it claims exemption from disclosure and explain why the writing meets the requirements of that provision.
 - (c) For writings that contain both exempt and non-exempt material, the proposed exempt material shall be clearly distinguishable from the non-exempt material. If possible, the exempt material must be arranged so that it is placed on separate pages from the non-exempt material.
- (3) For a writing to be considered exempt from disclosure as a "trade secret," it shall meet all of the following criteria:
 - (a) the information shall not be patented;
 - (b) it shall be known only to a limited number of individuals within a commercial concern who have made efforts to maintain the secrecy of the information;
 - (c) it shall be information which derives actual or potential economic value from not being disclosed to other persons;
 - (d) it shall give its users the chance to obtain a business advantage over competitors not having the information; and
 - (e) It must not be emissions data.

Registration

Section 34-025 Registration in General

- (1) Any air contaminant source which is not subject to the Air Contaminant Discharge Permits, LRAPA title 37, or the Oregon Title V Operating Permits, OAR division 218, must register with LRAPA upon request pursuant to 34-030(1) through (4).
- (2) The following sources that are certified through an LRAPA approved environmental certification program and subject to an Area Source NESHAP may register with LRAPA pursuant to 34-030 in lieu of obtaining a permit in accordance with 37-0020, unless LRAPA determines that the source has not complied with the requirements of the environmental certification program.
 - (a) Motor vehicle surface coating operations.
 - (b) Dry cleaners using perchloroethylene.
- (3) Approved environmental certification program. To be approved, the environmental certification program must, at a minimum, require certified sources to comply with all applicable state and federal rules and regulations and require additional measures to increase environmental protection.
- (4) Fees. In order to obtain and maintain registration, owners and operators of sources registered pursuant to subsection (2) must pay the applicable fees in title 37 Table 2 by March 1 of each year:
 - (a) Failure to pay fees. Registration is automatically terminated upon failure to pay annual fees within 90 days of invoice by LRAPA, unless prior arrangements for payment have been approved in writing by LRAPA.
- (5) Recordkeeping. In order to maintain registration, owners and operators of sources registered pursuant to subsection (2) must maintain records required by the approved environmental performance program under subsection (3). The records must be kept on site and in a form suitable and readily available for expeditious inspection and review.
- (6) The owner or operator of an air contaminant source that is subject to a federal NSPS or NESHAP in 40 CFR part 60 or 40 CFR part 63 and that is not located at a source that is required to obtain a permit under title 37 (Air Contaminant Discharge Permits) or OAR 340 division 218 (Oregon Title V Operating Permits), must register and maintain registration with LRAPA pursuant to section 34-030 if requested in writing by LRAPA (or by EPA at LRAPA's request).
- (7) Revocation. LRAPA may revoke a registration if a source fails to meet any requirement in 34-030.

Section 34-030 Registration Requirements and Re-Registration and Maintaining Registration

- (1) Registration pursuant to 34-025 shall be completed within thirty (30) days following the mailing date of the request by LRAPA.

- (2) Registration must be made on forms furnished by LRAPA and completed by the owner, lessee of the source, or agent. If a form is not available from LRAPA, the registrant may provide the information using a format approved by LRAPA.
- (3) In order to obtain registration pursuant to 34-025(1), the following information shall be reported by registrants:
 - (a) name, address, and nature of business;
 - (b) name of local person responsible for compliance with these rules;
 - (c) name of person authorized to receive requests for data and information;
 - (d) a description of the production processes and a related flow chart;
 - (e) a plot plan showing the location and height of all air contaminant sources (the plot plan shall also indicate the nearest residential or commercial property);
 - (f) type and quantity of fuels used;
 - (g) amount, nature, and duration of air contaminant emissions;
 - (h) estimated efficiency of air pollution control devices under present or anticipated operating conditions; and
 - (i) any other information requested by LRAPA.
- (4) In order to obtain registration pursuant to 34-025(2) the following information must be submitted by a registrant:
 - (a) Name, address, and nature of business;
 - (b) Name of local person responsible for compliance with these rules;
 - (c) Name of person authorized to receive requests for data and information;
 - (d) Information demonstrating that the air contaminant source is operating in compliance with all applicable state and federal rules and regulations, as requested by LRAPA;
 - (e) Information demonstrating that the source is certified through an approved environmental certification program;
 - (f) A signed statement that the submitted information is true, accurate, and complete. This signed statement must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete; and
 - (g) Any other information requested by LRAPA.
- (5) In order to obtain registration pursuant to 34-025(6), the following information must be submitted by a registrant:

- (a) Name, address and nature of business or institution;
 - (b) Name of local person responsible for compliance with these rules;
 - (c) Name of person authorized to receive requests for data and information;
 - (d) A description of the air contaminant source subject to regulation;
 - (e) Identification of the applicable regulation;
 - (f) Confirmation that approval to construct and operate the air contaminant source was obtained in accordance with 34-010 and 34-034 through 34-038;
 - (g) Confirmation that the air contaminant source is operating in compliance with all applicable state rules and regulations, including but not limited to section 32-010 (visible air contaminant limitations) and 32-020 or 32-030 (grain loading standards);
 - (h) Confirmation that the air contaminant source is operating in compliance with all applicable federal rules and regulations, including but not limited to 40 CFR part 60 and part 63 standards and work practice requirements, such as routine tune-up for boilers; and
 - (i) Any other information requested by LRAPA.
- (6) In order to re-register or maintain registration, a person responsible for an air contaminant source shall reaffirm in writing, by March 1st each year, the correctness and current status of the information furnished to LRAPA.
- (7) Any changes in any of the factual data reported under subsection (3) or (4) shall be reported to LRAPA, at which time re-registration may be required on forms furnished by LRAPA.
- (8) In order to re-register, a person must not have had their registration terminated or revoked within the last 3 years, unless the air contaminant source has changed ownership since termination or revocation, in which case the person must not have had their registration terminated or revoked since the change in ownership.
- (9) If a registered air contaminant source is sold or transferred, the sale or transfer must be reported to LRAPA by either the former owner or the new owner within 30 days of the date of sale or transfer. The new owner of the registered air contaminant source must register the air contaminant source within 30 days of the date of sale or transfer in accordance with subsections (2) and (4).

Notice of Construction and Approval of Plans

Section 34-034 Requirements for Construction

- (1) New sources. No person is allowed to construct, install, or establish a new source that will cause an increase in any regulated pollutant emissions without first notifying LRAPA in writing.

- (2) Modifications to existing sources. No person is allowed to make a physical change or change in operation of an existing stationary source that will cause an increase, on an hourly basis at full production, in any regulated pollutant emissions without first notifying LRAPA in writing.
- (3) Air Pollution Control Devices. No person is allowed to construct or modify any air pollution control device without first notifying LRAPA in writing.

Section 34-035 Types of Construction/Modification Changes

For the purpose of 34-010 and 34-034 through 34-038, changes that involve new construction or modifications of sources or air pollution control devices are divided into the following Types:

- (1) Type 1 changes include construction or modification of sources or air pollution control devices where such a change meets the criteria in paragraphs (a) through (f):
 - (a) Would not increase emissions from the source above the PSEL by more than the de minimis emission level defined in title 12 for sources required to have a permit;
 - (b) Would not increase emissions from the source above the netting basis by more than or equal to the SER;
 - (c) Would not increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or process at the source by more than the de minimis emission levels defined in LRAPA title 12;
 - (d) Would not be used to establish a federally enforceable limit on the potential to emit;
 - (e) Would not require a TACT determination under 32-008 or a MACT determination under 44-0200; and
 - (f) Is not required to obtain a permit under title 37.
- (2) Type 2 changes include construction or modification of stationary sources or air pollution control devices where such a change meets the criteria in paragraphs (a) through (f):
 - (a) Would not increase emissions from the source above the PSEL by more than the de minimis emission level defined in title 12 for sources required to have a permit;
 - (b) Would not increase emissions from the source above the netting basis by more than or equal to the SER;
 - (c) Would not increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than or equal to the SER;
 - (d) Would not be used to establish a federally enforceable limit on the potential to emit;
 - (e) Would not require a TACT determination under 32-008 or a MACT determination under 44-130; and
 - (f) Is not required to obtain a permit under title 37.

- (3) Type 3 changes include construction or modification of stationary sources or air pollution control devices where such a change does not qualify as a Type 4 change under subsection (4) and:
- (a) Would increase emissions from the source above the PSEL by more than the de minimis emission level defined in title 12 before applying unassigned emissions or emissions reduction credits available to the source but less than the SER after applying unassigned emissions or emissions reduction credits available to the source for sources required to have a permit;
 - (b) Would increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than the SER but are not subject to 42-0041(3)(b) or title 38 (NSR rules);
 - (c) Would be used to establish a federally enforceable limit on the potential to emit; or
 - (d) Would require a TACT determination under 32-008 or a MACT determination under 44-130.
- (4) Type 4 changes include construction or modification of stationary sources or air pollution control devices where such a change or changes would increase emissions from the source above the PSEL, after applying unassigned emissions or emissions reduction credits available to the source, or netting basis of the source by more than the SER.

Section 34-036 Notice to Construct

- (1) Any person proposing a Type 1 or 2 change must provide notice to LRAPA before constructing or modifying a stationary source or air pollution control device. The notice must be in writing on a form supplied by LRAPA and include the following information as applicable:
- (a) Name, address, and nature of business;
 - (b) Name of local person responsible for compliance with these rules;
 - (c) Name of person authorized to receive requests for data and information;
 - (d) The type of construction or modification as defined in 34-035;
 - (e) A description of the constructed or modified source;
 - (f) A description of the production processes and a related flow chart;
 - (g) A plot plan showing the location and height of all air contaminant sources and indicating the nearest residential or commercial property;
 - (h) Type and quantity of fuels used;
 - (i) Change in amount, nature and duration of air contaminant emissions;
 - (j) Plans and specifications for air pollution control devices and facilities and their relationship to the production process;

- (k) Estimated efficiency of air pollution control devices under present or anticipated operating conditions;
 - (l) Any information on pollution prevention measures and cross-media impacts desired to be considered in determining applicable control requirements and evaluating compliance methods;
 - (m) A list of any requirements applicable to the new construction or modification;
 - (n) 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 under 32-007(1) and (2);
 - (o) Amount and method of refuse disposal; and
 - (p) Land Use Compatibility Statement signed by a local (city or county) planner either approving or disapproving construction or modification to the source if required by the local planning agency.
- (2) Any person proposing a Type 3 or 4 change must submit an application for either a construction ACDP, new permit, or permit modification, whichever is appropriate.
 - (3) The owner or operator must notify LRAPA of any corrections and revisions to the plans and specifications upon becoming aware of the changes.
 - (4) Where a permit issued in accordance with title 37 or OAR 340 division 218 includes construction approval for future changes for operational flexibility, the notice requirements in this rule are waived for the approved changes.

Section 34-037 Construction Approval

- (1) Approval to Construct:
 - (a) For Type 1 changes, the owner or operator may proceed with the construction or modification 10 calendar days after LRAPA receives the notice required in 34-036 or on the date that LRAPA approves the proposed construction in writing, whichever is sooner, unless LRAPA notifies the owner or operator in writing that the proposed construction or modification is not a Type 1 change.
 - (b) For Type 2 changes, the owner or operator may proceed with the construction or modification 60 calendar days after LRAPA receives the notice required in 34-036 or on the date that LRAPA approves the proposed construction in writing, whichever is sooner, unless LRAPA notifies the owner or operator in writing that the proposed construction or modification is not a Type 2 change.
 - (c) For Type 3 changes, the owner or operator must obtain either a Construction ACDP or a new or modified Standard ACDP in accordance with title 37 before proceeding with the construction or modification.

- (d) For Type 4 changes, the owner or operator must obtain a new or modified Standard ACDP in accordance with title 37 before proceeding with the construction or modification. Type 4 changes may also be subject to title 38, NSR requirements.
- (2) Approval to construct does not relieve the owner of the obligation of complying with applicable requirements.
- (3) Notice of Completion. Unless otherwise specified in the construction ACDP or approval, the owner or operator must notify LRAPA in writing that the construction or modification has been completed using a form furnished by LRAPA. Unless otherwise specified, the notice is due 30 days after completing the construction or modification. The notice of completion must include the following:
 - (a) The date of completion of construction or modification; and
 - (b) The date the stationary source, device, activity, process, or air pollution control device was or will be put in operation.
- (4) Order Prohibiting Construction or Modification. If at any time, LRAPA determines that the proposed construction is not in accordance with applicable statutes, rules, regulations, and orders, LRAPA will issue an order prohibiting the construction or modification. The order prohibiting construction or modification will be forwarded to the owner or operator by certified mail.
- (5) Hearing. A person against whom an order prohibiting construction or modification is directed may request a contested case hearing within 20 days from the date of mailing the order. The request must be in writing, state the grounds for hearing, and be mailed to the Director. The hearing will be conducted pursuant to the applicable provisions in title 14.

Section 34-038 Approval to Operate

- (1) The approval to construct does not provide approval to operate the constructed or modified stationary source or air pollution control device unless otherwise allowed by subsection (2) or (3) or under the applicable ACDP or Oregon Title V Operating Permit programs (title 37 and OAR 340 division 218).
- (2) Type 1 and 2 changes:
 - (a) For sources that are not required to obtain a permit in accordance with 37-0020, Type 1 and 2 changes may be operated without further approval subject to the conditions of LRAPA's approval to construct provided in accordance with 34-037.
 - (A) Approval to operate does not relieve the owner of the obligation of complying with applicable requirements that may include but are not limited to the general opacity standards in 32-010 and general particulate matter standards in 32-015 and 32-030.
 - (B) If required by LRAPA as a condition of the approval to construct or at any other time in accordance with 34-030, the owner or operator must conduct testing or monitoring to verify compliance with applicable requirements. All required testing must be performed in accordance with section.

- (C) The owner or operator must register the air contaminant source with LRAPA if required as a condition of the approval to construct or at any other time in accordance with 34-030.
 - (b) For new sources that are required to obtain an ACDP in accordance with 37-0020, the ACDP, which allows operation, is required before operating the newly constructed equipment.
 - (c) For sources currently operating under an ACDP, Type 1 and 2 changes may be operated without further approval unless the ACDP specifically prohibits the operation.
 - (d) For sources currently operating under an LRAPA Title V Operating Permit, Type 1 and 2 changes may only be operated in accordance with OAR 340-218-0190(2).
- (3) Type 3 and 4 changes:
- (a) For new sources, Type 3 or 4 changes require a standard ACDP before operation of the changes.
 - (b) For sources currently operating under an ACDP, approval to operate Type 3 or 4 changes will require a new or modified standard ACDP. All ACDP terms and conditions remain in effect until the ACDP is modified.
 - (c) For sources currently operating under an LRAPA Title V Operating Permit, approval to operate Type 3 or 4 changes must be in accordance with OAR 340-218-0190(2).

Rules Applicable To Sources Required To Have Title V Operating Permits

Section 34-170 Applicability

Sections 34-180 through 34-200 apply to any stationary source defined under OAR 340-218-0020.

Section 34-180 Authority to Implement

In accordance with OAR 340-218-0010 and OAR 340-218-0010 LRAPA is authorized to implement all Oregon Administrative Rules, divisions 218 and 220 which apply to sources subject to the Oregon Title V Operating Permit program in Lane County. LRAPA shall implement division 218 and 220 rules as they pertain to Oregon Title V Operating Permit Program sources until such time as LRAPA adopts its own Title V Permit Program rules.

Section 34-190 Definitions

All definitions relevant to Oregon Title V Operating Permit Program rules are contained in OAR 340-200-0020 and are adopted here by reference in their entirety.

Section 34-200 Title V Operating Permitting Program Requirements and Procedures

All rules pertaining to permitting of sources subject to the Oregon Title V Operating Permit program are contained in OAR 340-218-0020 through 220-0190, and shall be implemented by LRAPA in accordance with 34-180.