

# 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) under ORS 468A.040 through 468A.060 and related statutes for sources of air contaminants.

#### **Section 37-0020 Applicability and Jurisdiction**

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

- (c) Sources in any one of the categories in Table 1, Part C must obtain a Standard ACDP under the procedures set forth in 37-0066.
- (3) No person may construct, install, establish, develop or operate any air contaminant source which is listed in 37-8010 Table 1 without first obtaining an Air Contaminant Discharge Permit (ACDP) from DEQ or LRAPA and keeping a copy onsite at all times, unless otherwise deferred from the requirement to obtain an ACDP in paragraph (3)(b) or LRAPA has granted an exemption from the requirement to obtain an ACDP under paragraph (3)(e). No person may continue to operate an air contaminant source if the ACDP expires, or is terminated, denied, or revoked; except as provided in 37-0082.
- (a) For portable sources, a single permit may be issued for operating at any area of the state if the permit includes the requirements from both DEQ and LRAPA. DEQ or LRAPA, depending where the portable source's corporate offices are located, will be responsible for issuing the permit. If the corporate office of a portable source is located outside of the state, DEQ will be responsible for issuing the permit, unless the source applies initially to be permitted to operate only in Lane County, then LRAPA will be responsible for issuing the permit.
- (b) An air contaminant source required to obtain an ACDP or ACDP Attachment 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 37-0025 Types of Permits**

#### (1) Construction ACDP:

- (a) A Construction ACDP may be used for approval of Type 3 changes specified in 34-035 at a source subject to the ACDP permit requirements in this title.
- (b) A Construction ACDP is required for Type 3 changes specified in 34-035 at sources subject to the Oregon Title V Operating Permit program requirements.

(2) General ACDP. A General ACDP is a permit for a category of sources for which individual permits are unnecessary in order to protect the environment, as determined by LRAPA. An owner or operator of a source may be assigned to a General ACDP if LRAPA has issued a General ACDP for the source category and:

- (a) The source meets the qualifications specified in the General ACDP;
- (b) LRAPA determines that the source has not had ongoing, recurring, or serious compliance problems; and
- (c) LRAPA determines that a General ACDP would appropriately regulate the source.

(3) Short Term Activity ACDP. A Short Term Activity ACDP is a letter permit that authorizes the activity and includes any conditions placed upon the method or methods of operation of the activity. LRAPA may issue a Short Term Activity ACDP for unexpected or emergency activities, operations, or emissions.

(4) Basic ACDP. A Basic ACDP is a letter permit that authorizes the regulated source to operate in conformance with the rules contained LRAPA's rules.

- (a) Owners and operators of sources and activities listed in Table 1, Part A of 37-8010 must, at a minimum, obtain a Basic ACDP.
- (b) Any owner or operator of a source required to obtain a Basic ACDP may obtain either a Simple or Standard ACDP.

(5) Simple ACDP

(a) Owners and operators of sources and activities listed in Table 1, Part B of 37-8010 that do not qualify for a General ACDP and are not required to obtain a Standard ACDP must, at a minimum, obtain a Simple ACDP. Any source required to obtain a Simple ACDP may obtain a Standard ACDP. LRAPA may determine that a source is ineligible for a Simple ACDP and must obtain a Standard ACDP based upon, but not limited to, the following considerations:

- (A) The nature, extent, and toxicity of the source's emissions;
- (B) The complexity of the source and the rules applicable to that source;
- (C) The complexity of the emission controls and potential threat to human health and the environment if the emission controls fail;
- (D) The location of the source; and
- (E) The compliance history of the source.

(b) A Simple ACDP is a permit that contains:

- (A) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements;
- (B) Generic PSELs for all regulated pollutants emitted at more than the de minimis emission level in accordance with title 42;
- (C) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and
- (D) A permit duration not to exceed 5 years.

(6) Standard ACDP:

(a) Applicability

- (A) The owner or operator of a source listed in Table 1, Part C of 37-8010 must obtain a Standard ACDP.
- (B) The owner or operator of a source listed in Table 1, Part B of 37-8010 that does not qualify for a General ACDP or Simple ACDP must obtain a Standard ACDP.
- (C) The owner or operator of a source not required to obtain a Standard ACDP may obtain a Standard ACDP.

(b) A Standard ACDP is a permit that contains:

- (A) All applicable requirements, including general ACDP conditions for incorporating generally applicable requirements;
- (B) Source specific PSELs or Generic PSEL levels, whichever are applicable, as specified in title 42;
- (C) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and
- (D) A permit duration not to exceed 5 years.

### **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 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 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 37-0052 Construction ACDP**

- (1) Purpose. A Construction ACDP is a permit for approval of Type 3 construction or modification changes as specified in 34-035 and 34-037. The Construction ACDP includes requirements for the construction or modification of stationary sources or air pollution control devices and does not by itself provide authorization to operate the new construction or modification. A new or modified Standard ACDP or LRAPA Title V Operating Permit is required before operation of the new construction or modification. A Construction ACDP may be used for the following situations:
- (a) For complex construction or modification projects that require an extended period of time to construct, the Construction ACDP may provide construction approval faster than issuance of a Standard ACDP or modified Standard ACDP because the operating requirements would not need to be included in the permit.
  - (b) For LRAPA Title V Operating Permit sources, the Construction ACDP may include the requirements of OAR 340-218-0050 and follow the external review procedures in OAR 340-218-0210 and 340-218-0230 so that the requirements may later be incorporated into the LRAPA Title V Operating Permit by an administrative amendment. If the applicant elects to incorporate the Construction ACDP by administrative amendment, all of the application submittal, permit content, and permit issuance requirements of OAR 340, division 218 must be met for the Construction ACDP.
- (2) Application requirements. Any person requesting a Construction ACDP must:
- (a) Submit an application in accordance with 37-0040 and provide the information specified in 37-0040(1) as it relates to the proposed new construction or modification; and
  - (b) Provide a list of any applicable requirements related to the new construction or modification.
- (3) Fees. Applicants for a Construction ACDP must pay the fees set forth in Table 2 of 37-8020.
- (4) Permit content. A Construction ACDP must include at least the following:
- (a) A requirement that construction must commence within 18 months after the permit is issued if required by 38-0030(4);
  - (b) A requirement to construct in accordance with approved plans;

- (c) A requirement to comply with all applicable requirements;
  - (d) Emission limits for affected stationary sources;
  - (e) Performance standards for affected stationary sources and air pollution control devices;
  - (f) Performance test requirements;
  - (g) Monitoring requirements, if specialized equipment is required (e.g., continuous monitoring systems);
  - (h) Notification and reporting requirements (construction status reports, startup dates, source test plans, CEMS performance specification testing plans, etc.);
  - (i) General ACDP conditions for incorporating generally applicable requirements;
  - (j) A requirement to modify the operating permit before commencing operation of the new construction or modification;
  - (k) A permit expiration date of no more than 5 years; and
  - (l) Oregon Title V Permit Program requirements as specified in OAR 340-218-0050, if the applicant requests the external review procedures in OAR 340-218-0210 and 340-218-0230.
- (5) Permit issuance procedures:
- (a) A Construction ACDP requires that LRAPA provide public notice in accordance with title 31 as a Category III permit action.
  - (b) For sources subject to the Oregon Title V Operating Permit program, the applicant may ask for the external review procedures in OAR 340-218-0210 and 340-218-0230 in addition to the requirements of title 31 to allow the Construction ACDP to be incorporated into the LRAPA Title V Operating Permit at a later date by an administrative amendment provided the requirements of paragraph (1)(b) are met.
  - (c) Issuance of a modified Construction ACDP requires the following public notice, as applicable:
    - (A) Public notice as a Category I permit action under title 31 for non-technical modifications and basic and simple technical modifications; or
    - (B) Public notice as a Category II permit action under title 31 for Non-NSR/PSD moderate and complex technical modifications.
- (6) Construction ACDPs may not be renewed.

### **Section 37-0054 Short Term Activity ACDPs**

- (1) Application requirements. Any person requesting a Short Term Activity ACDP must apply in writing, fully describing the emergency and the proposed activities, operations, and emissions. The application must include the fees specified in subsection (2).
- (2) Fees. Applicants for a Short Term Activity ACDP must pay the fees in Table 2 of 37-8020.
- (3) Permit content:
  - (a) A Short Term Activity ACDP must include conditions that ensure adequate protection of property and preservation of public health, welfare, and resources.
  - (b) A Short Term Activity ACDP may not include a PSEL for any air contaminants discharged as a result of the permitted activity.
  - (c) A Short Term Activity ACDP will automatically terminate 60 days from the date of issuance and may not be renewed.
- (4) Permit issuance public notice procedures. A Short Term Activity ACDP requires public notice as a Category I permit action under title 31.

### **Section 37-0056 Basic ACDPs**

- (1) Application requirements. Any person requesting a Basic ACDP must submit an application according to 37-0040 and provide the information specified in 37-0040(1).
- (2) Fees. Applicants for a new Basic ACDP must pay the fees in Table 2 of 37-8020.
- (3) Permit content:
  - (a) A Basic ACDP will contain only the most significant and relevant rules applicable to the source.
  - (b) A Basic ACDP may not contain a PSEL;
  - (c) A Basic ACDP will require that a simplified annual report be submitted to LRAPA; and
  - (d) A Basic ACDP may be issued for a period not to exceed ten years.
- (4) Permit issuance public notice procedures. A Basic ACDP requires public notice as a Category I permit action according to title 31.

### **Section 37-0060 General Air Contaminant Discharge Permits**

- (1) Applicability.
  - (a) LRAPA may issue a General ACDP under the following circumstances:
    - (A) There are multiple sources that involve the same or substantially similar types of operations;
    - (B) All requirements applicable to the covered operations can be contained in a General ACDP;
    - (C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP; and
    - (D) The regulated pollutants emitted are of the same type for all covered operations.
  - (b) Permit content. Each General ACDP must include the following:
    - (A) All relevant requirements for the operations covered by the General ACDP, excluding any federal requirements not adopted by the Board
    - (B) Generic PSELS for all regulated pollutants emitted at more than the de minimis emission level in accordance with title 42;
    - (C) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the PSEL and other applicable emissions limits and standards, and;
    - (D) A permit expiration date not to exceed 10 years from the date of issuance.
  - (c) Permit issuance public notice procedures: A new General ACDP requires public notice as a Category III permit action according to title 31. A reissued General ACDP or a modification to a General ACDP requires public notice as a Category II permit action according to title 31.
  - (d) LRAPA will retain all General ACDPs on file and make them available for public review at LRAPA.
- (2) Source assignment:
  - (a) Application requirements. Any person requesting that a source be assigned to a General ACDP must submit a written application according to section 37-0040 that includes the information in 37-0040(1), specifies the General ACDP source category, and shows that the source qualifies for the General ACDP.
  - (b) Fees. Applicants must pay the fees set forth in Table 2 of 37-8020. The fee class for each General ACDP is Fee Class One unless otherwise specified as follows:

- (A) Hard chrome platers – Fee Class Three;
- (B) Decorative chrome platers– Fee Class Four;
- (C) Halogenated solvent degreasers -- batch cold – Fee Class Two;
- (D) Perchloroethylene dry cleaners – Fee Class Six;
- (E) Asphalt plants – Fee Class Three;
- (F) Rock crushers – Fee Class Two;
- (G) Ready-mix concrete – Fee Class One;
- (H) Sawmills, planing mills, millwork, plywood manufacturing and veneer drying – Fee Class Three;
- (I) Boilers – Fee Class Two;
- (J) Crematories – Fee Class One;
- (K) Coffee roasters – Fee Class One;
- (L) Bulk gasoline plants – Fee Class One;
- (M) Electric power generators – Fee Class Two;
- (N) Clay ceramics – Fee Class One;
- (O) Secondary nonferrous metals – Fee Class One;
- (P) Gasoline dispensing facilities -- stage I – Fee Class Five;
- (Q) Wood preserving – Fee Class Four;
- (R) Metal fabrication and finishing – Fee Class Two;
- (S) Plating and polishing – Fee Class One;
- (T) Paint stripping – Fee Class One;
- (U) Motor vehicle and mobile equipment surface coating operations – Fee Class One;

- (V) Aluminum, copper, and nonferrous foundries – Fee Class Two;
  - (W) Paints and allied products manufacturing – Fee Class Two; and
  - (X) Emergency generators and firewater pumps, if a permit is required – Fee Class Two.
- (c) Source assignment procedures:
- (A) Assignment of a source to a General ACDP is subject to public notice in accordance with title 31 for Category I permit actions.
  - (B) A person is not a permittee under the General ACDP until LRAPA assigns the General ACDP to the person.
  - (C) Assignments to General ACDPs and attachment terminate when the General ACDP or the attachment expires or is modified, terminated or revoked.
  - (D) Once a source has been assigned to a General ACDP, if the assigned General ACDP does not cover all requirements applicable to the source, the other applicable requirements must be covered by assignment to one or more General ACDP Attachments according to 37-0062, otherwise the source must obtain a Simple or Standard ACDP.
  - (E) A source requesting to be assigned to a General ACDP Attachment, in accordance with 37-0062, for a source category in a higher annual fee class than the General ACDP to which the source is currently assigned, must be reassigned to the General ACDP for the source category in the higher annual fee class.
- (3) LRAPA Initiated Modification. If LRAPA determines that the conditions have changed such that a General ACDP for a category needs to be modified, LRAPA may issue a new General ACDP for that category and assign all existing General ACDP permit holders to the new General ACDP.
- (4) Rescission. LRAPA may rescind an individual source's assignment to a General ACDP if the source no longer meets the requirements of the permit. In such case, the source must submit an application within 60 days for a Simple or Standard ACDP upon notification by LRAPA of LRAPA's intent to rescind the General ACDP. Upon issuance of the Simple or Standard ACDP, or if the source fails to submit an application for a Simple or Standard ACDP, LRAPA will rescind the source's assignment to the General ACDP.

**Section 37-0062 General ACDP Attachments**

- (1) Purpose. This rule allows a source to be assigned to one General ACDP and one or more General ACDP Attachments, as long as the General ACDP and General ACDP Attachment contain all requirements applicable to the source. This would allow a source to avoid having to obtain a more

costly Simple or Standard ACDP if there are no General ACDPs that contain all requirements applicable to the source.

(2) Applicability.

(a) LRAPA may issue a General ACDP Attachment under the following circumstances:

- (A) There are multiple sources that involve the same or substantially similar types of operations;
- (B) All requirements applicable to the covered operations can be contained in a General ACDP Attachment;
- (C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP Attachment;
- (D) The regulated pollutants emitted are of the same type for all covered operations. If a General ACDP and a General ACDP Attachment cannot address all activities at a source, the owner or operator of the source must apply for Simple or Standard ACDP in accordance with this title.

(b) Attachment content. Each General ACDP Attachment must include the following:

- (A) All relevant requirements for the operations covered by the General ACDP Attachment, excluding any federal requirements not adopted by the Board;
- (B) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the applicable emissions limits and standards; and
- (C) An attachment expiration date not to exceed 10 years from the date of issuance.

(c) Attachment issuance public notice procedures: A General ACDP Attachment requires public notice as a Category II permit action according to title 31.

(d) LRAPA will retain all General ACDP Attachments on file and make them available for public review.

(3) Source assignment:

- (a) Application requirements. Any person requesting to be assigned to a General ACDP Attachment must submit a written application for each requested General ACDP Attachment that specifies the requested General ACDP Attachment and shows that the source qualifies for the requested General ACDP Attachment.

- (b) Fees. Applicants must pay the fees in Table 2 of 37-8020 for each assigned General ACDP Attachment. The fee class for each General ACDP Attachment is Fee Class Five.
- (c) Assignment procedures:
  - (A) Assignment to a General ACDP Attachment is a Category I permit action and is subject to the Category I public notice requirements according to title 31.
  - (B) A source is not a permittee under the General ACDP Attachment until LRAPA assigns the General ACDP Attachment to the person.
  - (C) Assignment to a General ACDP Attachment terminates when the General ACDP Attachment expires or is modified, terminated or revoked.
  - (D) A source may not be assigned to a General ACDP Attachment for a source category in a higher annual fee class than the General ACDP to which the source is currently assigned. Instead a source must be reassigned to the General ACDP for the source category in the higher annual fee class in accordance with 37-0060(2)(c)(E) and may be assigned to one or more General ACDP Attachments associated with source categories in an equal or lower annual fee class.
- (d) If all activities at a source cannot be addressed by a General ACDP and General ACDP Attachments, the owner or operator of the source must apply for a Simple or Standards ACDP in accordance with this title.

#### **Section 37-0064 Simple ACDPs**

- (1) Application Requirements. Any person requesting a new, modified, or renewed Simple ACDP must submit an application according to 37-0040.
- (2) Fees. Applicants for a new or modified Simple ACDP must pay the fees set forth in Table 2 37-8020. Applicants for a new Simple ACDP must initially pay the High Annual Fee. Once the initial permit is issued, annual fees for Simple ACDPs will be assessed based on the following:
  - (a) Low Fee -- A source may qualify for the low fee if:
    - (A) The source is, or will be, permitted under only one of the following categories in 37-8010 Table 1, Part B:
      - (i) Category 6. Asphalt felt and coatings;
      - (ii) Category 12. Boilers and other fuel burning equipment (can be combined with category 25. Electric power generation);
      - (iii) Category 25. Electric power generation;

- (iv) Category 30. Galvanizing & pipe coating;
  - (v) Category 36. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr. metal charged (not elsewhere identified);
  - (vi) Category 37. Gypsum products;
  - (vii) Category 50. Non-ferrous metal foundries 100 or more tons/year of metal charged;
  - (viii) Category 51. Organic or inorganic industrial chemical manufacturing;
  - (ix) Category 63. Secondary smelting and/or refining of ferrous and non-ferrous metals;
  - (x) Category 74. All other sources not listed in Table 1, 37-8010 that LRAPA determines an air quality concern exists including minor sources of HAPs not elsewhere classified or one which would emit significant malodorous emissions; or
  - (xi) Category 75. All other sources not listed in Table 1, 37-8010 (can be combined with category 25. Electrical power generation); or
- (B) The actual emissions from the calendar year immediately preceding the invoice date are less than five tons/year of PM<sub>10</sub> in a PM<sub>10</sub> nonattainment or maintenance area or PM<sub>2.5</sub> in a PM<sub>2.5</sub> nonattainment or maintenance area, and less than 10 tons/year for each criteria pollutant; and
  - (C) The source is not creating a nuisance under title 49.
- (b) High Fee -- Any source required to have a Simple ACDP (37-8010 Table 1 Part B) that does not qualify for the low fee under paragraph (2)(a) will be assessed the high fee.
  - (c) If LRAPA determines that a source was invoiced for the low annual fee but does not meet the low fee criteria outlined above, the source will be required to pay the difference between the low and high fees, plus applicable late fees in 37-8020 Table 2. Late fees start upon issuance of the initial invoice. In this case, LRAPA will issue a new invoice specifying applicable fees.
- (3) Permit Content. Each Simple ACDP must include the following:
    - (a) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements, but excluding any federal requirements not adopted by the Board;

- (b) Generic PSELS for all regulated pollutants emitted at more than the de minimis emission level in accordance with title 42;
  - (c) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and
  - (d) A permit duration not to exceed 5 years.
- (4) Permit issuance public notice procedures:
- (a) Issuance of a new or renewed Simple ACDP requires public notice as a Category II permit according to title 31.
  - (b) Issuance of a modification to a Simple ACDP requires one of the following procedures, as applicable:
    - (A) Public notice as a Category I permit action for non-technical basic and simple technical modifications according to title 31; or
    - (B) Public notice as a Category II permit action for moderate and complex technical modifications according to title 31.

**Section 37-0066 Standard ACDPs**

- (1) Application requirements. Any person requesting a new, modified, or renewed Standard ACDP must submit an application in accordance with 37-0040 and include the following additional information as applicable:
- (a) New or modified Standard ACDPs that are not subject to Major NSR, but have emissions increases above the significant emissions rate are subject to the requirements of State NSR. The application must include an analysis of the air quality and, for federal major sources only, the visibility impacts of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts.
  - (b) For new or modified Standard ACDPs that are subject to Major NSR, the application must include the following information as applicable:
    - (A) A detailed description of the air pollution control devices and emission reductions processes which are planned for the major source or major modification, and any other information necessary to determine that BACT or LAER technology, whichever is applicable, would be applied;
    - (B) An analysis of the air quality and, for federal major sources only, the visibility impacts of the major source or major modification, including meteorological and

topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

- (C) An analysis of the air quality and, for federal major sources only, the visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, which has occurred since the baseline concentration year in the area the major source or major modification would affect.
- (2) Fees. Applicants for a Standard ACDP must pay the fees set forth in Table 2, 37-8020.
  - (3) Permit content. Each Standard ACDP must include the following:
    - (a) All applicable requirements, including general ACDP conditions for incorporating generally applicable requirements but excluding any federal requirements not adopted by the Board;
    - (b) Source specific PSELS or Generic PSEL levels, whichever are applicable, under title 42;
    - (c) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and
    - (d) A permit duration not to exceed 5 years.
  - (4) Permit issuance procedures.
    - (a) Issuance of a new or renewed Standard ACDP requires public notice under title 31 as follows:
      - (A) Public notice as a Category III permit action for permit actions that will increase allowed emissions but that are not a Major NSR or Type A State NSR permit actions under title 38, or as a Category II permit action if the permit will not increase allowed emissions.
      - (B) Public notice as a Category IV permit action for permit actions that are Major NSR or Type A NSR permit actions under title 38.
    - (b) Issuance of a modified Standard ACDP requires public notice under title 31 as follows:
      - (A) Public notice as a Category I permit action for non-technical modifications and basic and simple technical modifications.
      - (B) Public notice as a Category II permit action for moderate and complex technical modifications if there will be no increase in allowed emissions, or as a Category III permit action if there will be an increase in emissions;

- (C) Public notice as a Category IV permit action for major modifications subject to NSR under title 38.

### **Section 37-0068 Simple and Standard ACDP Attachments**

- (1) Purpose. This section allows LRAPA to add new requirements to existing Simple or Standard ACDPs by assigning the source to an ACDP Attachment issued under subsection (2). An ACDP Attachment would apply to an affected source until the new requirements are incorporated into the source's Simple or Standard ACDP at the next permit renewal or at the time of permit modification.
- (2) ACDP Attachment issuance procedures:
  - (a) An ACDP Attachment requires public notice as a Category II permit action under title 31, except that ACDP Attachments to Simple or Standard ACDPs require notice as Category I permit actions.
  - (b) LRAPA may issue an ACDP Attachment when there are multiple sources that are subject to the new requirements.
  - (c) Attachment content. Each ACDP Attachment must include the following:
    - (A) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the applicable emissions limits and standards; and
    - (B) An attachment expiration date not to exceed 5 years from the date of issuance.
- (3) Assignment to ACDP Attachment:
  - (a) A source is not a permittee under the ACDP Attachment until LRAPA assigns the ACDP Attachment to the source.
  - (b) The ACDP Attachment is removed from the Simple or Standard ACDP when the requirements of the ACDP Attachment are incorporated into the source's Simple or Standard ACDP at the time of renewal or modification.
  - (c) If an EPA, DEQ, or LRAPA action causes a source to be subject to the requirements in an ACDP Attachment, assignment to the ACDP Attachment is a LRAPA initiated modification to the Simple or Standard ACDP and the permittee is not required to submit an application or pay fees for the permit action. In such case, LRAPA would notify the permittee of the proposed permitting action and the permittee may object to the permit action if the permittee demonstrates that the source is not subject to the requirements of the ACDP Attachment.

### **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 37-0070 Permitting a Source with Multiple Activities or Processes at a Single Adjacent or Contiguous Site**

A single or contiguous site containing activities or processes that are covered by more than one General ACDP, or a source that contains processes or activities listed in more than one part of Table 1, Part A to Part C, 37-8010 may obtain a Standard ACDP, even if not otherwise required to obtain a Standard ACDP under this title.

**Section 37-0082 Termination or Revocation of an ACDP**

- (1) Expiration
  - (a) A source may not be operated after the expiration date of a permit, unless any of the following occur prior to the expiration date of the permit:
    - (A) A timely and complete application for renewal has been submitted; or
    - (B) Another type of permit, ACDP or Title V, has been issued authorizing operation of the source.
  - (b) If a timely and complete renewal application has been submitted, the existing permit will remain in effect until final action has been taken on the renewal application to issue or deny a permit.

- (c) For a source operating under an ACDP or LRAPA Title V Operating Permit, a requirement established in an earlier ACDP remains in effect notwithstanding expiration of the ACDP, unless the provision expires by its terms or unless the provision is modified or terminated according to the procedures used to establish the requirement initially.
- (2) Automatic Termination. A permit is automatically terminated upon:
- (a) Issuance of a renewal or new ACDP for the same activity or operation;
  - (b) Written request of the permittee, if LRAPA determines that a permit is no longer required;
  - (c) Failure to submit a timely application for permit renewal. Termination is effective on the permit expiration date; or
  - (d) Failure to pay annual fees within 90 days of invoice by LRAPA, unless prior arrangements for payment have been approved in writing by LRAPA.
- (3) Reinstatement of Terminated Permit: A permit automatically terminated under any of the paragraphs (2)(b) through (2)(d) may only be reinstated by the permittee by applying for a new permit. The permittee must also pay the applicable new source permit application fees in this title unless the owner or operator submits the renewal application within three months of the permit expiration date.
- (4) Revocation:
- (a) If LRAPA determines that a permittee is in noncompliance with the terms of the permit, submitted false information in the application or other required documentation, or is in violation of any applicable rule or statute, LRAPA may revoke the permit. LRAPA will provide notice of the intent to revoke the permit to the permittee under title 31. The notice will include the reasons why the permit will be revoked, and include an opportunity for the permittee to request a contested case hearing prior to the revocation. A permittee's written request for hearing must be received by LRAPA within 60 days from service of the notice on the permittee, and must state the grounds of the request. The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and title 14. The permit will continue in effect until the 60th day after service of the notice on the permittee, if the permittee does not timely request a hearing, or until a final order is issued if the permittee timely requests a hearing.
  - (b) If LRAPA finds there is a serious danger to the public health, safety or the environment caused by a permittee's activities, LRAPA may immediately revoke or refuse to renew the permit without prior notice or opportunity for a hearing. If no advance notice is provided, notification will be provided to the permittee as soon as possible as provided under title 31. The notification will set forth the specific reasons for the revocation or refusal to renew and will provide an opportunity for the permittee to request a contested case hearing for review of the revocation or refusal to renew. A permittee's written request for hearing must be received by LRAPA within 90 days of service of the notice on the permittee and must state

the grounds for the request. The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and title 14. The revocation or refusal to renew becomes final without further action by LRAPA if a request for a hearing is not received within the 90 days. If a request for a hearing is timely received, the revocation or refusal to renew will remain in place until issuance of a final order.

#### **Section 37-0084 LRAPA Initiated Modification**

If LRAPA determines it is appropriate to modify an ACDP, other than a General ACDP, LRAPA will notify the permittee by regular, registered or certified mail of the modification and will include the proposed modification and the reasons for the modification. The modification will become effective upon mailing unless the permittee requests a contested case hearing within 20 days. A request for hearing must be made in writing and must include the grounds for the request. The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and title 14. If a hearing is requested, the existing permit will remain in effect until after a final order is issued following the hearing. The permit issuance procedures will be conducted in accordance with 37-0056(4) for Basic ACDPs, 37-0064(5) for Simple ACDPs, and 37-0066(4) for Standard ACDPs.

#### **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.
- (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.

#### **Section 37-0094 Temporary Closure**

- (1) A permittee that temporarily suspends activities for which an ACDP is required may apply for a fee reduction due to temporary closure. However, the anticipated period of closure must exceed six months and must not be due to regular maintenance or seasonal limitations.
- (2) LRAPA will prorate annual fees for temporary closure based on the length of the closure in a calendar year, but will not be less than one half of the regular annual fee for the source.
- (3) A source who has received LRAPA approval for payment of the temporary closure fee must obtain authorization from LRAPA prior to resuming permitted activities. An owner or operator of the source must submit written notification, together with the prorated annual fee for the remaining months of the year, to LRAPA at least thirty (30) days before startup and specify in the notification the earliest anticipated startup date.