

LANE REGIONAL AIR PROTECTION AGENCY (LRAPA)
1010 Main Street, Springfield, OR 97477

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FOREWORD

The Lane Regional Air Protection Agency was established under Oregon Statute 449 (now 468.A) and approved by the Oregon Sanitary Authority (now Environmental Quality Commission), effective January 1, 1968, to exercise the functions vested by statute within the boundaries of Lane County. These rules and regulations are adopted pursuant to that authority.

The following revisions have occurred since the original rules were approved and printed:

1. Title 23	Variances	Amended 08/02/72
2. Title 12	General Duties and Powers of Board and Director	Amended 12/10/74
3. Title 20	Indirect Sources	Added 07/08/75
4. Title 32	Emission Standards	Amended 08/12/75
5. Title 22	Permits	Amended 02/09/76
6. Title 20	Indirect Sources	Adopted 11/23/76
7. Title 22	Permits	Amended 02/18/77
8. Title 11	Policy and General Provisions	Amended 10/17/78
9. Title 13	Civil Penalties	Adopted 10/17/78
10. Title 21	Registration, Reports & Test Procedures	Amended 10/17/78
11. Title 32	Emission Standards	Amended 10/17/78
12. Title 33	Prohibited Practices and Control of Special Classes	Amended 10/17/78
13. Title 36	Open Outdoor Burning	Adopted 10/17/78
14. Title 42	Prehearing Procedures	Rescinded 10/17/78
15. Title 42	Rules of Practice and Procedure, Hearing Procedures	Adopted 10/17/78
16. Title 43	Hearing Procedure	Rescinded 10/17/78
17. Title 44	Evidence	Rescinded 10/17/78
18. Title 44	Rules of Practice and Procedure, Evidence	Adopted 10/17/78
19. Title 45	Decision and Appeal	Rescinded 10/17/78
20. Title 45	Rules of Practice and Procedure, Decision and Appeal	Adopted 10/17/78
21. Title 32	Emission Standards	Amended 05/15/79
22. Title 11	Policy and General Provisions	Amended 05/15/79
23. Title 33	Prohibited Practices and Control of Special Classes	Adopted 05/15/79
24. Title 11	Policy and General Provisions	Amended 10/09/79
25. Title 36	Rules for Open Outdoor Burning	Amended 10/09/79
26. Title 36	Rules for Open Outdoor Burning	Amended 01/08/80
27. Title 13	Civil Penalties	Amended 05/13/80
28. Title 11	Policy and General Provisions	Amended 06/09/81
29. Title 22	Permits	Amended 06/09/81
30. Title 32	Emission Standards	Amended 06/09/81
31. Title 35	Emission Standards for Hazardous Air Contaminants	Adopted 06/09/81
32. Title 37	Standards of Performance for New Stationary Sources	Adopted 06/09/81
33. Title 36	Rules for Open Outdoor Burning	Amended 10/08/81
34. Title 42	Rules of Practice and Procedure	Amended 01/12/82
35. Title 12	General Duties and Powers of Board and Director	Adopted 03/09/82
36. Title 13	Enforcement Procedures	Adopted 03/09/82
37. Title 22	Permits	Amended 04/13/82
38. Title 32	Emission Standards	Amended 04/13/82
39. Title 32	Emission Standards	Amended 09/14/82

40. Title 33	Prohibited Practices and Control of Special Classes	Amended 09/14/82
41. Title 31	Ambient Air Standards	Amended 07/12/83
42. Title 12	General Duties and Powers of Board and Director	Amended 11/08/83
43. Title 20	Indirect Sources	Amended 11/08/83
44. Title 22	Permits	Amended 11/08/83
45. Title 23	Variances	Amended 11/08/83
46. Title 32	Emission Standards	Amended 11/08/83
47. Title 36	Rules for Open Outdoor Burning	Amended 11/08/83
48. Title 36	Rules for Open Outdoor Burning	Rescinded 08/14/84
49. Title 47	Rules for Open Outdoor Burning	Adopted 08/14/84
50. Title 32	Emission Standards	Amended 01/08/85
51. Title 11	Policy and General Provisions	Amended 05/14/85
52. Title 14	Definitions	Adopted 05/14/85
53. Title 21	Registration, Reports & Test Procedures	Rescinded 05/14/85
54. Title 22	Permits	Rescinded 05/14/85
55. Title 34	Air Contaminant Discharge Permits	Adopted 05/14/85
56. Title 38	New Source Review	Adopted 05/14/85
57. Title 37	Standards of Performance for New Stationary Sources	Rescinded 09/10/85
58. Title 46	Standards of Performance for New Stationary Sources	Adopted 09/10/85
59. Title 14	Definitions	Amended 05/13/86
60. Title 38	New Source Review	Amended 05/13/86
61. Title 34	Table A, Air Contaminant Sources and Associated Fee Schedule	Amended 12/16/86
62. Title 32	Emission Standards	Amended 12/16/86
63. Title 48	Rules for Fugitive Emissions	Adopted 12/16/86
64. Title 35	Emission Standards for Hazardous Air Contaminants	Rescinded 11/17/87
65. Title 43	Emission Standards for Hazardous Air Contaminants	Adopted 11/17/87
66. Title 12	General Duties & Powers of Board and Director	Amended 03/08/88
67. Title 20	Indirect Sources	Amended 03/08/88
68. Title 14	Definitions	Amended 07/12/88
69. Title 31	Ambient Air Standards (Renumbered to Title 50)	Amended 07/12/88
70. Title 38	New Source Review	Amended 07/12/88
71. Title 51	Air Pollution Emergencies	Amended 07/12/88
72. Title 34	Air Contaminant Discharge Permits	Amended 09/13/88
73. Title 43	Emission Standards for Hazardous Air Pollutants	Amended 09/13/88
74. Title 13	Enforcement Procedures	Rescinded 08/08/89
75. Title 13	Enforcement Procedures and Civil Penalties	Adopted 08/08/89
76. Title 34	Air Contaminant Discharge Permits	Amended 01/09/90
77. Title 42	Rules of Practice and Procedure--Hearing Procedure	Rescinded 02/13/90
78. Title 44	Rules of Practice and Procedure--Evidence	Rescinded 02/13/90
79. Title 45	Rules of Practice and Procedure--Decision and Appeal	Rescinded 02/13/90
80. Title 12	General Duties and Powers of Board and Director (Renumbered to Title 13)	Amended 02/13/90
81. Title 13	Enforcement Procedure and Civil Penalties (Renumbered to Title 15)	Amended 02/13/90
82. Title 14	Definitions (Renumbered to Title 12)	Amended 02/13/90
83. Title 14	Rules of Practice and Procedure	Adopted 02/13/90
84. Title 20	Indirect Sources	Amended 02/13/90
85. Title 34	Air Contaminant Discharge Permits	Amended 02/13/90
86. Title 38	New Source Review	Amended 02/13/90
87. Title 33	Prohibited Practices and Control of Special Classes	Amended 06/11/91

88. Title 39	Contingency for PM10 Sources in Eugene-Springfield Non-Attainment Area	Adopted 10/01/91
89. Title 34	Table A, Air Contaminant Sources and Associated Fee Schedule	Amended 11/11/91
90. Title 15	Enforcement Procedures and Civil Penalties	Amended 02/11/92
91. Title 35	Major Source Interim Emission Fee Rules	Adopted 02/11/92
92. Title 43	Emission Standards for Hazardous Air Contaminants	Amended 02/11/92
93. Title 34	Air Contaminant Discharge Permits	Amended 04/14/92
94. Title 36	Excess Emissions	Adopted 04/14/92
95. Title 47	Outdoor Open Burning	Amended 10/13/92
96. Title 16	Home Wood Heating Curtailment Program Enforcement	Adopted 11/10/92
(TEMPORARY RULES)		
97. Title 12	Definitions	Amended 05/11/93
98. Title 34	Air Contaminant Discharge Permits	Amended 05/11/93
100. Title 38	New Source Review	Amended 05/11/93
101. Title 16	Home Wood Heating Curtailment Program Enforcement	Adopted 07/13/93
(PERMANENT RULES)		
102. Title 47	Outdoor Open Burning	Amended 10/12/93
103. Title 12	Definitions	Amended 03/08/94
104. Title 15	Enforcement Procedures and Civil Penalties	Amended 03/08/94
105. Title 30	Incinerator Rules	Adopted 03/08/94
106. Title 33	Prohibited Practices and Control of Special Classes	Amended 03/08/94
107. Title 34	Air Contaminant Discharge Permits	Amended 04/12/94
108. Title 34	Air Contaminant Discharge permits	Amended 10/11/94
109. Title 43	Emission Standards for Hazardous Air Pollutants	Amended 10/11/94
110. Title 32	Emission Standards	Amended 11/10/94
111. Title 33	Prohibited Practices and Control of Special Classes	Amended 11/10/94
112. Title 34	Air Contaminant Discharge Permits (RENAMED Stationary Source Rules and Permitting Procedures)	Amended 11/10/94
113. Title 46	Standards of Performance for New Stationary Sources	Rescinded 11/10/94
114. Title 46	Standards of Performance for New Stationary Sources (new version same as DEQ rules)	Adopted 11/10/94
115. Title 15	Enforcement Procedures and Civil Penalties	Amended 06/13/95
116. Title 32	Emission Standards	Amended 08/17/95
(TEMPORARY RULES)		
117. Title 34	Stationary Source Rules and Permitting Procedures (Table A, Air Contaminant Sources and Associated Fee Schedule)	Amended 09/12/95
118. Title 47	Open Burning	Amended 10/17/95
119. Title 33	Prohibited Practices and Control of Special Classes of Industry	Amended 04/14/96
(TEMPORARY RULES)		
120. Title 34	Stationary Source Rules and Permitting Procedures (Table A, Air Containment Sources and Associated Fee Schedule)	Amended 09/09/97
121. Title 34	Stationary Source Rules and Permitting Procedures (Table A, Air Containment Sources and Associated Fee Schedule)	Amended 05/12/98
122. Title 43	Emission Standards for Hazardous Air Pollutants	Amended 10/20/98
123. Title 47	Open Burning	Amended 03/09/99
124. Title 12	Definitions	Amended 03/09/99
126. Title 47	Open Burning	03/09/99 Amendment Re-adopted 10/12/99
127. Title 12	Definitions	03/09/99 Amendment Re-adopted 10/12/99
128. Title 34	Stationary Source Rules and Permitting Procedures	Amended 06/13/00

	(Table A, Air Contaminant Sources and Associated Fee Schedule)	
129. Title 34	Table A, Air Contaminant Sources and Associated Fee Schedule	Annual 4% Increase in Fee, Effective 07/01/01
130. Title 36	Excess Emissions	Amended and Re-Adopted 08/14/01
131. Title 49	Nuisance Rules	Adopted 10/09/01
132. Title 12	Definitions	Amended 10/09/01
133. Title 32	Emission Standards	Amended 10/09/01
134. Title 48	Fugitive Emission	Amended 10/09/01
135. Title 50	Ambient Air Standards	Amended 10/09/01
136. Title 47	Open Burning	Administrative Amendments 10/26/01
137. Title 12	Definitions	Amended 06/11/02
138. Title 37	Hazardous Air Pollutant Program, General Provisions for Stationary Sources	Adopted 06/11/02
139. Title 43	Asbestos Requirements (renamed from “Emission Standards for Hazardous Pollutants”)	Amended 06/11/02
140. Title 34	Table A, Air Contaminant Sources and Associated Fee Schedule	Annual 4% Increase in Fees, Effective 7/01/02
141. Title 34	Table A, Air Contaminant Sources and Associated Fee Schedule	Annual 4% Increase in Fees, Effective 07/01/03
142. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/03
143. Title 34	Table A, Air Contaminant Sources and Associated Fee Schedule	Annual 4% Increase in Fees, Effective 07/01/04
144. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/04
145. Title 34	Table A, Air Contaminant Sources and Associated Fee Schedule	Annual 4% Increase in Fees, Effective 07/01/05
146. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/05
147. Title 34	Table A, Air Contaminant Sources and Associated Fee Schedule	Annual 4% Increase in Fees, Effective 07/01/06
148. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/06
149. Title 1	Rules for Contracts and Personal Services Contracts	Adopted 03/08/07
150. Title 34	Table A, Air Contaminant Sources and Associated Fee Schedule	Annual 4% Increase in Fees, Effective 07/01/07
151. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/07
152. Title 47	Open Burning	Amended 03/14/08
153. Title 34	Table A, Air Contaminant Sources and Associated Fee Schedule	Annual 4% Increase in Fees, Effective 07/01/08
154. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/08
155. Title 12	General Provisions Definitions	Adopted/ Amended 10/14/08
156. Title 29	Designation of Air Quality Areas	Adopted/ Amended 10/14/08
157. Title 30	Incinerator Regulations	Adopted/ Amended 10/14/08
158. Title 31	Public Participation	Adopted/ Amended 10/14/08
159. Title 32	Emissions Standards	Adopted/ Amended 10/14/08
160. Title 33	Prohibited Practices and Control of Special Classes of Industry	Adopted/ Amended 10/14/08
161. Title 34	Stationary Source Notification Requirements	Adopted/ Amended 10/14/08
162. Title 35	Stationary Source Testing and Monitoring	Adopted/ Amended 10/14/08
163. Title 36	Excess Emissions	Adopted/ Amended 10/14/08
164. Title 37	Air Contaminant Discharge Permits	Adopted/ Amended 10/14/08
165. Title 37	Table 1	Adopted/ Amended 10/14/08

166. Title 37	Table 2	Adopted/ Amended 10/14/08
167. Title 38	Major New Source Review	Adopted/ Amended 10/14/08
168. Title 40	Air Quality Analysis Requirements	Adopted/ Amended 10/14/08
169. Title 41	Emissions Reduction Credits	Adopted/ Amended 10/14/08
170. Title 42	Stationary Source Plant Site Emission Limits	Adopted/ Amended 10/14/08
171. Title 44	Hazardous Air Pollution Program	Adopted/ Amended 10/14/08
172. Title 46	New Source Performance Standards	Adopted/ Amended 10/14/08
173. Title 48	Rules for Fugitive Emissions	Adopted/ Amended 10/14/08
174. Title 49	Nuisance Control Requirements	Adopted/ Amended 10/14/08
175. Title 50	Ambient Air Standards	Adopted/ Amended 10/14/08
176. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/09
177. Title 37	Table 2 (Section 37-0020)	Annual CPI Increase in Fees, Effective 07/01/09
178. Title 15	Enforcement Procedure and Civil Penalties	Amended 11/10/09
179. Title 12	General Provisions and Definitions	Amended 1/12/10
180. Title 13	General Duties and Powers of Board and Director	Amended 1/12/10
181. Title 30	Incinerator regulations	Amended 1/12/10
182. Title 31	Public Participation	Amended 1/12/10
183. Title 34	Stationary Source Notification Requirements	Amended 1/12/10
184. Title 37	Air Contaminant Discharge Permits	Amended 1/12/10
185. Title 37	Table 1 (Section 37-0010)	Amended 1/12/10
186. Title 37	Table 2 (Section 37-0020)	Amended 1/12/10
187. Title 38	Major New Source Review	Amended 1/12/10
188. Title 40	Air Quality Analysis Requirements	Amended 1/12/10
189. Title 44	Hazardous Air Pollution Program	Amended 1/12/10
190. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/10
191. Title 37	Table 2 (Section 37-0020)	Annual CPI Increase in Fees, Effective 07/01/10
192. Title 43	Asbestos Requirements	Amended 07/26/10
(TEMPORARY RULES- Expire: February 23, 2011)		
193. Title 12	General Provisions and Definitions	Adopted 8/23/10
194. Title 38	Major New Source	Adopted 8/23/10
195. Title 40	Air Quality Analysis Requirements	Adopted 8/23/10
196. Title 50	Ambient Air Standards	Adopted 8/23/10
197. Title 12	General Provisions and Definitions	Amended 4/25/11
198. Title 32	Emissions Standards	Amended 4/25/11
199. Title 34	Stationary Source Notification Requirements	Amended 4/25/11
200. Title 36	Excess Emissions	Amended 4/25/11
201. Title 37	Air Contaminant Discharge Permit	Amended 4/25/11
202. Title 37	Table 1 (Section 37-0010)	Amended 4/25/11
203. Title 37	Table 2 (Section 37-0020)	Amended 4/25/11
204. Title 38	Major New Source	Amended 4/25/11
205. Title 40	Air Quality Analysis Requirements	Amended 4/25/11
206. Title 42	Stationary Plant Site Emission Limits	Amended 4/25/11
207. Title 44	Hazardous Air Pollution Program	Amended 4/25/11
208. Title 46	New Source Performance Standards	Amended 4/25/11
209. Title 50	Ambient Air Standards	Amended 4/25/11
210. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/11
211. Title 37	Table 2 (Section 37-0020)	Annual CPI Increase in Fees, Effective 07/01/11
212. Title 29	Designation of Air Quality Areas	Amended 9/26/11

213. Title 32	Emission Standards	Amended 9/26/11
214. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/12
215. Title 37	Table 2 (Section 37-0020)	Annual CPI Increase in Fees, Effective 07/01/12
216. Title 29	Designation of Air Quality Areas	Amended 10/18/12
217. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/13
218. Title 37	Table 2 (Section 37-0020)	Annual CPI Increase in Fees, Effective 07/01/13
219. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/14
220. Title 37	Table 2 (Section 37-0020)	Annual CPI Increase in Fees, Effective 07/01/14
221. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/15
222. Title 37	Table 2 (Section 37-0020)	Annual CPI Increase in Fees, Effective 07/01/15
223. Title 44	Hazardous Air Pollution Program	Amended 11/12/15
224. Title 46	New Source Performance Standards	Amended 11/12/15
225. Title 15	Enforcement Procedure and Civil Penalties	Amended 11/12/15
226. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/16
227. Title 37	Table 2 (Section 37-0020)	Annual CPI Increase in Fees, Effective 07/01/16
228. Title 43	Asbestos Requirements	Amended 6/8/17
229. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/17
230. Title 37	Table 2 (Section 37-0020)	Annual CPI Increase in Fees, Effective 07/01/17
231. Title 47	Outdoor Burning	Amended 10/12/17
232. Title 12	General Provisions and Definitions	Amended 1/11/18
233. Title 14	Rules of Practice and Procedure	Amended 1/11/18
234. Title 29	Designation of Air Quality Areas	Amended 1/11/18
235. Title 30	Incinerator Regulations	Amended 1/11/18
236. Title 31	Public Participation	Amended 1/11/18
237. Title 32	Emission Standards	Amended 1/11/18
238. Title 33	Prohibited Practices and Control of Special Classes of Industry	Amended 1/11/18
239. Title 34	Stationary Source Notification Requirements	Amended 1/11/18
240. Title 35	Stationary Source Testing and Monitoring	Amended 1/11/18
241. Title 36	Excess Emissions	Amended 1/11/18
242. Title 37	Air Contaminant Discharge Permits	Amended 1/11/18
243. Title 37	Table 1 – Section 37-8010	Amended 1/11/18
244. Title 37	Table 2 – Section 37-8020	Amended 1/11/18
245. Title 38	New Source Review	Amended 1/11/18
246. Title 40	Air Quality Analysis Requirements	Amended 1/11/18
247. Title 41	Emission Reduction Credits	Amended 1/11/18
248. Title 42	Stationary Source Plant Site Emission Limits	Amended 1/11/18
249. Title 44	Hazardous Air Pollutant Program	Amended 1/11/18
250. Title 46	New Source Performance Standards	Amended 1/11/18
251. Title 48	Rules for Fugitive Emissions	Amended 1/11/18
252. Title 49	Nuisance Control Requirements	Amended 1/11/18
253. Title 50	Ambient Air Standards and PSD Increments	Amended 1/11/18
254. Title 51	Air Pollution Emergencies	Amended 1/11/18
255. Title 47	Outdoor Burning	Amended 4/12/18, Effective 10/1/18
256. Title 37	Table 2 – Section 37-8020	Annual 4% Increase in Fees, Effective 07/01/18
257. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/18
258. Title 12	General Provisions and Definitions	Amended 3/14/19, Effective 05/16/19
259. Title 15	Enforcement Procedure and Civil Penalties	Amended 3/14/19, Effective 05/16/19
260. Title 31	Public Participation	Amended 3/14/19, Effective 05/16/19

261. Title 37	Air Contaminant Discharge Permits	Amended 3/14/19, Effective 05/16/19
262. Title 37	Table 2 – Section 37-8020	Amended 3/14/19, Effective 05/16/19
263. Title 37	Table 3 – Section 37-8030	Adopted 3/14/19, Effective 05/16/19
264. Title 37	Table 2 – Section 37-8020	Annual 4% Increase in Fees, Effective 07/01/19
265. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/19
266. Title 37	Table 2 – Section 37-8020	Annual 4% Increase in Fees, Effective 07/01/2020
267. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/2020
268. Title 37	Table 2 – Section 37-8020	Annual 4% Increase in Fees, Effective 07/01/2021
269. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/2021
270. Title 29	Designation of Air Quality Areas	Amended 10/14/2021
271. Title 37	Table 2 – Section 37-8020	Annual 4% Increase in Fees, Effective 07/01/2022
272. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/2022
273. Title 37	Table 2 – Section 37-8020	Annual 4% Increase in Fees, Effective 07/01/2023
274. Title 43	Asbestos Requirements	Annual 4% Increase in Fees, Effective 07/01/2023

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 1

Public Contracting and Procurement Rules

Section 1-005 Scope

1. Statutory Authority. These Rules are adopted by the Lane Regional Air Protection Agency ("LRAPA") and its contract review board, the LRAPA Board of Directors (the "Board") pursuant to the authority granted by ORS Chapter 468A, ORS 279A.065 and ORS 279A.070.
2. Attorney General's Rules Inapplicable. The Attorney General's Model Contract Rules adopted pursuant to ORS 279A.065 are generally inapplicable to the contracting activities of the Board specifically referenced and adopted in these Rules, but may be used by the Purchasing Agent, as hereinafter defined, as supplemental Rules, if needed to address circumstances not provided for by these Rules.
3. Statutory Requirements Not Reiterated. LRAPA is subject to public contracting requirements under ORS Chapters 279A, 279B and 279C (the "Public Contracting Code"). Those requirements generally are not reiterated in these Rules.
4. Federal Requirements. LRAPA is subject to certain contracting requirements when a particular Contract is supported in whole or in part with federal funds. Those requirements are not reiterated in these Rules.
5. Exempt Contracts. The following contracts are exempt from application of the Public Contracting Code and are also exempt from all provisions of these Rules except for Section 1.6 concerning the authority of the Board and the Purchasing Agent to award and execute LRAPA contracts:
 - A. Contracts between LRAPA and other public bodies or between LRAPA and the federal government;
 - B. Grants, as defined herein, other than contracts for construction services for which LRAPA has received a grant;
 - C. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which LRAPA is or may become interested;

- D. Acquisitions or disposals of real property or interests in real property;
 - E. Contracts, agreements or other documents entered into, issued or established in connection with:
 - (1) The incurring of debt by LRAPA, including but not limited to the issuance of bonds, certificates of participation and other debt repayment obligations, and any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited.
 - (2) The making of program loans and similar extensions or advances of funds, aid or assistance by LRAPA to a public or private body for the purpose of carrying out, promoting, or sustaining activities or programs authorized by law; or
 - (3) The investment of funds by LRAPA, as authorized by law, and other financial transactions of LRAPA that in the determination of the Purchasing Agent or the Executive Director cannot practically be established under the competitive Contractor selection procedures of ORS 279B.050 to 279B.085;
 - F. Contracts for employee benefit plans as provided in ORS 243.105(1), 243.125(4), 243.221, 243.275, 243.291, 243.303 and 243.565; or
 - G. Any other public contracting of LRAPA specifically exempted from the Public Contracting Code by another provision of law.
6. Powers and Authority of the Board and the Purchasing Agent.
- A. Powers Reserved to the Board.
 - (1) Contract Review Board Authority. The Board reserves to itself the exercise of all of the duties and authority of a contract review board under the Public Contracting Code, including, but not limited to, the power and authority to:
 - (a) Hear Debarment appeals; and
 - (b) Create and approve special procurements under ORS 279B.085 and approve exemptions from competitive bidding for Public Improvement Contracts under ORS 279C.335.

- (2) Contract Award. The Board reserves to itself the authority to approve the award of all Public Contracts for which the Contract Price exceeds the expenditure authority of the Purchasing Agent.
- (3) Amendment of Rules. All amendments to these Rules shall be made by resolution of the Board following a hearing at which members of the public have the opportunity to appear and submit comments and protests. Unless otherwise provided in these Rules, notice of the hearing for a proposed amendment to these Rules shall be advertised at least once in a publication in general circulation in the greater Eugene area at least five (5) Days prior to the hearing.

B. Authority and Responsibilities of the Purchasing Agent.

- (1) General Authority. The Purchasing Agent is authorized to take all action that s/he deems necessary or convenient to implement these Rules except for those powers and authorities expressly reserved to the Board. Without limiting the generality of the foregoing and subject to these Rules, the Purchasing Agent shall determine the manner in which Contractors for particular Contracts shall be selected, issue all Solicitation Documents, hear all protests, evaluate all awards, make all Contract awards within his/her expenditure authority and execute, on behalf of LRAPA, all duly awarded Contracts.
- (2) Purchasing Agent Regulations. The Purchasing Agent may develop Contract and Solicitation forms and promulgate administrative rules, procedures and delegation orders under these Rules. In doing so, the Purchasing Agent shall make sure that such forms, rules, procedures and orders:
 - (a) Do not encourage favoritism or substantially diminish competition;
 - (b) Allow LRAPA to take advantage of the cost-saving benefit of alternative contracting methods and practices;
 - (c) Give preference to Goods and Services that have been manufactured or produced in the State of Oregon if price, fitness, availability and quality are otherwise equal (and so long as giving such preference is consistent with applicable federal laws); and
 - (d) Give preference to Goods that are certified to be made from recycled products when such Goods are available, can be substituted for non-recycled products without a loss in quality, and

the cost of Goods made from recycled products is not significantly more than the cost of Goods made from non-recycled products.

- (3) Contract Oversight. The Purchasing Agent shall oversee all public contracting activities of LRAPA.
- (4) Mandatory Review and Rule Amendment. The Purchasing Agent will designate appropriate staff to review and recommend necessary changes to the Rules following each session of the Oregon state legislature and may, from time to time, recommend other amendments to the Rules. All amendments to the Rules will be promulgated by the Board.
- (5) Annual Report to Bureau of Labor and Industries. Not less than thirty (30) Days prior to adoption of LRAPA's annual budget, LRAPA shall prepare and file with the Commissioner of the Bureau of Labor and Industries a list of every Public Improvement known to LRAPA that LRAPA plans to fund in the budget period, identifying each improvement by name and estimating the total on-site construction costs. LRAPA shall also submit to the Commissioner a statement as to whether it intends to perform the construction through a private Contractor.
- (6) Delegation. All responsibilities and authority of the Purchasing Agent except for those duties specifically assigned by these Rules to the Executive Director of LRAPA may be delegated and sub-delegated by duly executed written orders.

7, Effective Date and Effect. These Rules take effect upon adoption by the Board and supersede any conflicting Rules, procedures or practices.

Section 1-010 Definitions

- "Addendum" or "Addenda" means a written document issued by LRAPA to change, clarify, add, modify or delete a Solicitation Document.
- "Amendment" means a written document to modify or change a Contract and executed by all parties to the Contract.
- "Bid" means a formal, Sealed, binding written Offer to provide Goods or Services or to construct an improvement described in a Solicitation Document for a fixed price, based on stipulated lump sums and/or unit prices.
- "Bid Documents" means the Solicitation Documents that set forth requirements for submitting a Bid.
- "Bidder" means an Entity that submits a Bid in response to an Invitation to Bid.

- "Board" means the Board of Directors of LRAPA.
- "Change Order" means a written statement signed by LRAPA and a general contractor, stating their agreement upon all or part of the following, subject to particular terms and conditions of an agreement between a general contractor and LRAPA for a particular project:
 - A. a described change in the work being undertaken by the general contractor;
 - B. the amount, if any, the original Contract amount is adjusted upward or downward for the change in the work; and
 - C. the extent of the adjustment, if any, in the schedule of construction.
- "Closing" means the date and time after which Bids, Proposals, Statements of Qualifications or other Solicitation Responses will not be received. The Closing date and time must be specified in the Solicitation Documents.
- "Contract" means a written agreement that sets forth all rights and obligations of the parties with respect to a particular transaction, including but not limited to all plans, specifications, price terms and legal requirements.
- "Contract Price" means the total amount paid or to be paid under a Contract, including any approved alternates, and any fully executed Change Orders or Amendments.
- "Contractor" means the Entity awarded a Contract.
- "Days" means calendar days unless otherwise specified by these Rules.
- "Debarment" means a debarment pursuant to ORS 279B.130 or a Disqualification pursuant to ORS 279C.440, 279C.445 and 279C.450.
- "Disaster" means a severe storm, volcanic eruption, landslide, mudslide, drought, fire, earthquake, explosion, civil disturbance, or other catastrophe that causes or may cause substantial damage or injury to persons or property within LRAPA's boundaries or area of jurisdiction.
- "Disqualification" means the elimination of a Bid or Proposal from consideration for a particular award on grounds of responsiveness or under the Standards of Responsibility.
- "Emergency" means that a substantial risk of loss, damage, interruption of services, or threat to the public health or safety has arisen from circumstances that could not have been reasonably foreseen and that requires prompt execution of a Contract to remedy the condition.

- “Entity” means a natural person capable of being legally bound, sole proprietorship, corporation, partnership, limited liability company or partnership, limited partnership, profit or nonprofit unincorporated association, business trust, two or more persons having a joint or common economic interest, or any other person with legal capacity to contract, or a government or governmental subdivision.
- “Findings” means justification for the Board or Executive Director’s conclusion that may include, but is not limited to, information regarding operation, budget and financial data; public benefits; cost savings; competition in Public Contracts; value engineering; specialized expertise needed; public safety; market conditions; technical complexity; and funding sources.
- "Goods" means any item or combination of supplies, equipment materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto.
- "Invitation to Bid" means a publicly advertised written Solicitation Document calling for Bids.
- "LRAPA" means the Lane Regional Air Protection Agency.
- "Offer" means a Bid, Proposal, or Quotation, as applicable.
- "Offeror" means an Entity submitting an Offer.
- "Opening" means the date upon which Solicitation Documents are first available to potential Offerors.
- “Personal Services” means services that require specialized technical, creative, professional or communication skills or talents, unique and specialized knowledge or the exercise of discretionary judgment skills and for which the quality of the service depends on attributes that are unique to the service provider. Such services include but are not limited to the services of attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants and property managers. For any single Contract or class of Contracts, the Purchasing Agent shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph are Personal Services.
- "Personal Service Contract" means a Contract primarily for the provision of Personal Services. The following are not Personal Service Contracts:
 - A. Contracts with a temporary staffing agency to supply labor, which is of a type that can generally be done by any skilled worker;
 - B. Contracts, even though in a professional capacity, if primarily for equipment, supplies or materials; or

- C. Contracts for which the work has traditionally been performed by Contractors selected primarily on the basis of price (i.e., construction Services; food services; or other Services that do not require specialized skills, knowledge and resources).
- "Price Agreement" means a Public Contract for the procurement of Goods or Services at a set price with no guarantee of a minimum or maximum purchase; or an initial order or minimum purchase combined with a continuing Contractor obligation to provide Goods or Services in which the contracting agency does not guarantee a minimum or maximum additional purchase.
 - "Proposal" means a competitive written Offer, binding on the Proposer and submitted in response to a Request for Proposals, a Request for Qualifications or a Request for Quotations.
 - "Proposer" means an Entity that submits a Proposal in response to a Request for Proposals, a Request for Qualifications or a Request for Quotations.
 - "Public Contract" means any agreement for the purchase, lease, rental or other acquisition or the sale or other disposal by LRAPA of personal property, Services, including Personal Services, Public Improvements, Public Works, minor alterations or ordinary repair or maintenance necessary to preserve a Public Improvement and which is not exempt from the application of these Rules under Subsection 1-005-5.
 - "Public Contracting Code" means the provisions of ORS Chapters 279A, 279B, and 279C.
 - "Public Improvement" means the construction, reconstruction or major renovation on real property by or for LRAPA, but does not include a Contract for which no funds of LRAPA are directly or indirectly used, Emergency work, minor alteration, ordinary repair or maintenance necessary in order to preserve real property.
 - "Public Improvement Contract" means a contract for a Public Improvement.
 - "Public Works" include, but are not limited to roads, highways, buildings, structures and improvements of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by LRAPA to serve the public interest but does not include the reconstruction or renovation of privately owned property which is leased by LRAPA.
 - "Purchasing Agent" means the Executive Director of LRAPA, or his or her duly authorized designees.
 - "Quotation" or "Quote" means a price or statement of proposed Contract terms offered in response to an informal, oral or written Solicitation that is not publicly advertised, but is made to a limited number of potential Offerors.

- "Request for Proposal" means publicly advertised written Solicitation Documents inviting Proposals.
- "Request for Qualifications" means a written request for submission of a statement of qualifications.
- "Request for Quotations" means an informal oral or written request inviting Quotes.
- "Resident Bidder" means a Bidder that has paid unemployment taxes or income taxes in Oregon during the 12 calendar months immediately preceding submission of the Bid, has a business address in Oregon, and has stated in the Bid whether the Bidder is a Resident Bidder under ORS 279A.120.
- "Responsible Bidder" or "Responsible Proposer" means that a Bidder or a Proposer who has made a Responsive Offer, meets the Standards of Responsibility and, if the Contract is for a Public Improvement, is not on the list created by the Construction Contractors Board under ORS 701.227.
- "Responsive Offer" means an Offer (including a Bid or Quote or Proposal) that conforms in all material respects with the requirements set forth in the Solicitation Documents and all requirements of the Public Contracting Code and these Rules. An Offer is not responsive if it contains Contract terms or provisions that are contrary to the terms and provisions set forth in the Solicitation Documents or indicates that the Goods and Services that will be provided do not conform to the Contractor specifications.
- "Rules" means these Public Contracting Rules of the Lane Regional Air Protection Agency promulgated by the Board.
- "Sealed" means that a Bid is enclosed in an opaque paper envelope with all Openings glued, taped, or otherwise fastened so the envelope cannot be easily opened prematurely without leaving evidence that it had been opened prematurely.
- "Services" means all labor and services, including trade services, other than Personal Services.
- "Solicitation" means any invitation to one or more potential Contractors to submit a Bid, Proposal, Quote, statement of qualifications or letter of interest to LRAPA with respect to a proposed project, procurement or other contracting opportunity. The word "Solicitation" also refers to the process by which LRAPA requests, receives and evaluates potential Contractors and awards Contracts that are subject to these Rules.
- "Solicitation Documents" means all informational materials issued by LRAPA for a Solicitation, including, but not limited to advertisements, Instructions to Bidders or Proposers, the Contract terms, Invitations to Bid, Requests for Proposals, written Requests for Quotations and all documents incorporated by reference.

- "Standards of Responsibility" means that an Offeror must meet all of the following requirements to be deemed a responsible Offeror:
 - A. Financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain the resources and expertise, necessary to indicate the capability of the Bidder or Proposer to meet all contractual responsibilities;
 - B. A satisfactory record of performance. The Purchasing Agent shall document the record of performance of a Bidder or Proposer if the Purchasing Agent finds the Bidder or Proposer nonresponsible under this paragraph;
 - C. A satisfactory record of integrity. The Purchasing Agent shall document the record of integrity of a Bidder or Proposer if the Purchasing Agent finds the Bidder or Proposer nonresponsible under this paragraph;
 - D. Qualified legally to contract with LRAPA;
 - E. Supplied all necessary information in connection with the inquiry concerning responsibility. If a Bidder or Proposer fails to promptly supply information requested by the Purchasing Agent concerning responsibility, the Purchasing Agent shall base the determination of responsibility upon any available information and may find the Bidder or Proposer to be non-responsible;
 - F. Not been Debarred by LRAPA; and
 - G. Has complied with requirements under the Solicitation, if any, to make good faith efforts as prescribed in ORS 200.045(3) concerning small business enterprises.

The Purchasing Agent may investigate any Offeror so that previously Debarred Entities or their officers, directors, or principal owners may not, by subterfuge, change of ownership, or other adjustments in formal appearance, avoid application of this Rule or of the Debarment provision of these Rules.

Section 1-015 Classes of Public Contracts and Methods of Selection

1. General Rules.
 - A. No Division of Contracts. No procurement or Contract or scheduled Public Improvement may be artificially divided into parts or phases for the purpose of avoiding any of these Rules.
 - B. Record of Selection Method. The Purchasing Agent shall keep a written record of the method used to award every Contract for Personal Services, Goods or Services or Public Improvement and the basis of the award and, unless the award was made pursuant to an Invitation to Bid or a Request for Proposals, of the reasons why the method of selection was deemed in the best interest of LRAPA.

- C. Estimated Contract Price. When deciding whether to use an informal method of selection that does not include formal advertisement of the Solicitation, the estimated Contract Price shall be calculated to include a reasonable contingency against market price fluctuation. If Quotes or Proposals received under an informal Solicitation indicate that the likely Contract Price, including all renewal periods, will exceed the price-limit for the informal method by more than ten percent (10%), the Solicitation shall be cancelled and may be reissued under a method appropriate for the likely Contract Price.

2. Sole Source Contracts.

- A. Method of Selection and Record of Determination. Goods, Services, Personal Services that are available from only one source may be purchased through direct negotiation without competitive Solicitation. The Purchasing Agent shall make a written record of the facts that support the determination that the product or Service or improvement is only available from a single source and that alternative products, Services or improvements would be unsatisfactory for LRAPA's needs.
- B. Notice. At least three (3) business Days before making a sole source procurement for which the estimated Contract Price will exceed \$100,000, the Purchasing Agent shall publish notice of the procurement that:
 - (1) identifies the Goods or Services sought;
 - (2) requests statements of interest from vendors who are qualified to provide the desired Goods or Services; and
 - (3) states that if no responses are received from qualified vendors within the time period specified in the notice, the Purchasing Agent will proceed with a sole source procurement.

3. Emergencies.

- A. In General. When the Purchasing Agent determines that immediate execution of a Contract is necessary to prevent substantial damage or injury to persons or property, the Purchasing Agent may execute the Contract without complying with the requirements of this section concerning competitive selection and award, but, where time permits, the Purchasing Agent shall attempt to use competitive price and quality evaluation before selecting an Emergency Contractor. In the event the Contract Price exceeds \$100,000, the Board shall approve the Contract prior to execution or ratify the Contract at the next regularly scheduled meeting of the Board.
- B. Reporting. The Purchasing Agent shall:

- (1) document the nature of the Emergency; the method used for selection of the particular Contractor and the reason why the selection method was deemed in the best interest of LRAPA and the public, and
 - (2) notify the Board of the declaration of Emergency, if made, and the facts and circumstances surrounding the Emergency execution of the Contract, as soon as possible, in light of the Emergency circumstances.
- C. **Public Improvement Contracts.** A Public Improvement Contract may only be awarded under this section if the Purchasing Agent has declared an Emergency. Any Public Improvement Contract award under this section must be awarded within sixty (60) Days following the declaration of an Emergency unless the Board grants an extension of the Emergency period.
4. **Renewals.** Contracts that are being renewed in accordance with their terms are not considered to be newly issued Contracts and are not subject to competitive procurement procedures.
 5. **Preference for Products and Services of Disabled and Blind Individuals.** If any Goods, Services or improvements needed by LRAPA are available in a timely manner from a qualified nonprofit agency for disabled individuals, as defined in ORS 279.835, or if LRAPA is in need of an operator of a vending facility on property owned by LRAPA, the Purchasing Agent shall enter into a Contract with a qualified nonprofit agency in accordance with the provisions of ORS 279.835 – ORS 279.855 or with a blind person in accordance with the provisions of ORS 346.510 – ORS 346.560, as applicable. If Goods, Services, including vending facility operations, or improvements are available from more than one such agency or person, the Purchasing Agent shall award a Contract to the agency or the person with products and Services that best meet the needs of LRAPA. The provisions of this paragraph do not apply to Contracts for Personal Services.

Section 1-020 Goods and Services Other than Personal Services

1. **General.** The Rules set forth under this section govern the selection of Goods and Services providers, including providers of trade and construction Services for minor alterations, ordinary repairs or maintenance of Public Improvements. The Model Rules shall govern selection of Contractors for Public Improvements. Contracts for Goods or Services in any amount may be awarded under a Solicitation using an Invitation to Bid or a Request for Proposals.
2. **Small Procurements.** Contracts for the procurement of Goods or Services for which the estimated Contract Price does not exceed \$25,000 may be awarded by direct appointment or any other method which the Purchasing Agent deems in the best interest of LRAPA. A Contract awarded as a small procurement may be amended only in accordance with these Rules.

3. Intermediate Procurements. Contracts for Goods or Services for which the estimated Contract Price does not exceed \$150,000 may be awarded using one of the following two informal Solicitation methods. For Contracts for which the estimated Contract Price is more than \$25,000 but does not exceed \$75,000, at least three (3) verbal Quotes must be obtained. For Contracts for which the estimated Contract Price is more than \$75,000 but does not exceed \$150,000, at least three (3) written Quotes must be obtained. A Contract awarded as an intermediate procurement may be amended only in accordance with these Rules.
4. Special Procurements. The following classes of Contracts or Goods or Services are subject to the class special procurement procedures described below.
 - A. Purchasing Agent's Discretion. The following classes of contracts may be awarded by direct appointment or any other method which the Purchasing Agent deems in the best interest of LRAPA. The Purchasing Agent shall make a written record documenting the manner of selection and the reason why the selection was in the best interest of LRAPA.
 - (1) Insurance and employment benefits Contracts.
 - (2) Contracts or arrangements for the sale or other disposition of used personal property.
 - (3) Contracts for copyrighted materials or advertising products;
 - (4) Contracts for items for which price or selection of suppliers is regulated by a governmental authority, including the purchase of steam, power, heat, water, telecommunications services, and other utilities;
 - (5) Contracts for educational materials, including books, periodicals, sound recordings, films, film strips, maps and other printed or published materials;
 - (6) Contracts for a single period of one year or less, for the temporary extension of an expiring and non-renewable Price Agreement or Services Contract;
 - (7) Contracts for food service;
 - (8) Contracts for equipment repair and overhaul;
 - (9) Contracts for gasoline, fuels, oils and lubricants;
 - (10) Contracts for computer hardware and software;

- (11) Contracts for Goods and Services which are acquired for and through the Airmetrics program (and using the Airmetrics Fund), including materials needed to manufacture and sell the "MiniVol" air sampler; and
 - (12) Contracts for Goods or Services in an amount of \$25,000 or less.
- B. Federal Purchasing Program. Goods and Services may be purchased without competitive procedures under a local government purchasing program administered by the United States General Services Administration ("GSA") as provided in this Rule.
 - (1) The procurement must be made in accordance with procedures established by GSA for procurements by local governments, and under purchase orders or Contracts submitted to and approved by the Purchasing Agent. The requisitioning department shall provide the Purchasing Agent with a copy of the letter, memorandum or other documentation from GSA establishing permission to LRAPA to purchase under the federal program.
 - (2) The price of the Goods or Services must be established under Price Agreements between the federally approved vendor and GSA.
 - (3) The price of the Goods or Services must be less than the price at which such Goods or Services are available under state cooperative purchasing programs that are available to LRAPA.
 - (4) If a single purchase of Goods or Services exceeds the Informal Contract Limit, the requisitioning department must obtain informal written Quotes or Proposals from at least two additional vendors (if reasonably available) and find, in writing, that the Goods or Services offered by GSA represent the best value for LRAPA.
 - (5) Subsection 1-020-4.B(4), above, does not apply to the purchase of equipment manufactured or sold solely for military or law enforcement purposes.
- C. Cooperative Procurements. The Purchasing Agent may purchase Goods and Services under joint and permissive cooperative procurements as provided under and subject to the applicable provisions of ORS Chapter 279A. When procuring Goods or Services using advertised Invitations to Bid or a Request for Proposals, the Purchasing Agent is encouraged to consider whether the Solicitation should provide a basis for permissive cooperative procurements by other contracting agencies.

Section 1-025 Personal Service Contracts

- 1. General Rule. Contracts for Personal Services in any amount may be awarded under a Request for Proposals. Personal Services are services that require specialized technical, creative, professional or communication skills or talents, unique and specialized knowledge or the exercise of discretionary judgment skills and for which the quality of the service depends on

attributes that are unique to the service provider. Such services include but are not limited to the services of attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants and property managers. For any single Contract or class of Contracts, the Purchasing Agent shall have discretion to determine whether additional types of services not specifically mentioned in this section are Personal Services.

2. **Small Procurements.** Contracts for the procurement of Personal Services for which the estimated Contract Price does not exceed \$25,000 may be awarded by direct appointment or any other method which the Purchasing Agent deems in the best interest of LRAPA. A Contract awarded as a small procurement may be amended only in accordance with these Rules.
3. **Intermediate Level Contracts.** Contracts for the procurement of Personal Services for which the estimated Contract Price does not exceed \$150,000 may be awarded using one of the following two informal Solicitation methods. For Contracts for which the estimated Contract Price is more than \$25,000 but does not exceed \$75,000, at least three (3) verbal Quotes must be obtained. For Contracts for which the estimated Contract Price is more than \$75,000 but does not exceed \$150,000, at least three (3) written Quotes must be obtained. A Contract awarded as an intermediate procurement may be amended only in accordance with these Rules.
4. **Purchasing Agent's Discretion.** The following Personal Service Contracts may be awarded by any method deemed appropriate by the Purchasing Agent, including without limitation, by direct appointment, by private negotiation or by using a competitive process.
 - A. **Contracts Under \$25,000.** Contracts for which the Purchasing Agent estimates that payments will not exceed \$25,000 over the full term, including optional renewals.
 - B. **Temporary Extensions.** A Contract for a single period of one (1) year or less, for the temporary extension of an expiring and non-renewable Contract.
 - C. **Contracts for Continuation of Work.** Contracts of not more than \$75,000 for the continuation of work by a Contractor who performed preliminary studies, analysis or planning for the work under a prior Contract, if the prior Contract was awarded under a competitive process and the Purchasing Agent determines that use of the original Contractor will significantly reduce the costs of, or risks associated with, the work.
 - D. **Reinstatement of Expired Contracts.** A Personal Services Contract may be reinstated once, at least so long as the requirements of this section are met.
 - (1) The Contract was not extended or renewed in a timely manner due to unforeseen or unavoidable conditions.
 - (2) The Contract is reinstated within sixty (60) Days of expiration of the original Contract.

- (3) The Purchasing Agent has determined that the work needs to be completed by the original Contractor after expiration of the Contract and there is no change in the statement of work and either:
 - (a) The reinstatement is exclusively for the purpose of permitting completion of the work or the services for no additional compensation; or
 - (b) When the services are of a continuing or repetitive nature which are compensated at an hourly, daily or similar periodic rate, the reinstatement either does not increase the rate of compensation or does not increase the rate of compensation so as to exceed the rate of the increase determined by comparing the Portland, Oregon Metropolitan Area CPI (all items) published immediately prior to the date the original Contract was established with the same index published immediately prior to the date of the reinstatement and extension.
- (4) There have been no prior reinstatements;
- (5) The original Contract will not be modified except with respect to the time for performance; and
- (6) The reinstatement does not raise the aggregate amount of compensation beyond \$75,000.
- E. Advertising. Contracts in any amount for advertising services.
- F. Cooperative Procurements. Contracts under joint and permissive cooperative procurements as provided under and as subject to the applicable provisions of ORS Chapter 279A.

Section 1-030 Requests and Approvals of Alternate Selection Methods for Special Contracts

The Board, upon its own initiative or upon request of the Purchasing Agent, may create special selection, evaluation and award procedures for, or may exempt from competition the award of, a specific contract or class of contracts as provided in this section.

- 1. Basis for Approval of Alternate Selection Method. The approval of a special Solicitation method, including but not limited to direct appointment, must be based upon a record before the Board that contains the following:
 - A. The nature of the Contract or class of Contracts for which the special Solicitation or exemption is required.
 - B. Estimated Contract Price or cost of the project, if relevant;

- C. Findings to support the substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive Solicitation;
 - D. Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the Public Contract or class of Public Contracts, or, in the case of contracts for Personal Services or procurement of Goods or Services, would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the Solicitation requirements that are applicable under these Rules.
 - E. A description of the proposed alternative contracting methods to be employed; and
 - F. The estimated date by which it would be necessary to let the Contract(s).
2. Hearing. The Board shall approve the special Solicitation or exemption from competition after a public hearing following notice by publication in at least one newspaper of general circulation in the greater Eugene area.

Section 1-035 Solicitation Procedures

- 1. Advertisements.
 - A. Manner of Publication. An advertisement for a Solicitation shall be published at least once in at least one newspaper of general circulation in the Eugene area and in such publications as the Purchasing Agent may determine to be necessary or desirable to encourage competition and participation. In addition, for any Contract that will exceed \$75,000, publication must be made in *The Oregonian* or another trade newspaper of general statewide circulation.
 - B. Time of Publication. The last publication date of an advertisement in any publication shall be at least five (5) Days prior to any Solicitation Closing and two (2) Days prior to any pre-Bid or pre-Proposal conference.
 - C. Posting and Availability. A copy of each Notice shall be posted on LRAPA's web site and hard copy shall be made available upon request.
 - D. Electronic Advertisement. Advertisements for Solicitations may be published solely in electronic format, except that any Public Contract with an estimated Price in excess of \$75,000 shall be advertised in at least one trade newspaper of general statewide circulation.
 - E. Content of Advertisement. The advertisement shall provide the following information to prospective Offerors:

- (1) The date and time of the Closing, after which Bids, Proposals, Statements of Qualifications or other Solicitation responses will not be received;
 - (2) A description of the project, the character of the work to be done, the Services to be provided or the material or thing to be purchased;
 - (4) Policy and program compliance to include Disparity Program requirements, if any;
 - (5) The date, time and place of any conference that will be held prior to the Solicitation Closing;
 - (6) The manner in which copies of the Solicitation Documents may be obtained and the address of the office where plans and specifications may be reviewed or copied;
 - (7) The charge, if any, that will be made for copies of the Solicitation Documents;
 - (8) The name and title of the person designated for receipt of Offers;
 - (9) The address where Offers must be submitted;
 - (10) The date, time and place that Offers will be publicly opened; and
 - (11) Statement, if applicable, that the Contract is for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276a).
2. Policy and Program Compliance. LRAPA values diversity in its workforce and in the workforce of those who contract with LRAPA. LRAPA encourages firms contracting and subcontracting at all tiers with LRAPA to do the same. All Offers shall comply with the diversity program requirements set forth in the Solicitation.
 3. Pre-Closing Conferences. The Purchasing Agent may hold a pre-closing conference to answer questions regarding the project, Goods or Services sought, explain procurement requirements, conduct site inspections or assist prospective Offerors in meeting other LRAPA requirements such as compliance with its diversity program.
 - A. Announcement. The time and place of the conference shall be announced to all prospective Offerors in the Solicitation notice and Solicitation Documents. The pre-closing conference shall be held no sooner than two (2) Days after the last publication of the Solicitation advertisement, but sufficiently before Closing to allow consideration of the conference results in preparing Offers.
 - B. Attendance. The Purchasing Agent may require mandatory attendance at the pre-closing conference as a condition for submitting Offers. Such requirement shall

be included in the Solicitation advertisement and in the Solicitation Documents. A list of attendees shall be documented in the Solicitation file.

- C. Confirmation by Addenda. Statements at the pre-closing conference shall not change the Solicitation Documents unless confirmed to all prospective Offerors by means of a written Addendum to the Solicitation Documents.

4. Bid or Proposal Security.

- A. Security. Bid or Proposal security not to exceed ten percent (10%) of the base Bid or Proposal amount(s) may be required by the Purchasing Agent for Public Contracts. The Purchasing Agent shall also have discretion to require Proposal security in an amount estimated to be ten percent (10%) of the Contract Price for a Solicitation under which price is negotiable. Bid or Proposal security may be in the form of a surety bond, cashier's check, certified check, or irrevocable letter of credit.
- B. Return of Security. Upon the execution of the Contract and delivery of all required payment and performance bonds by the successful Bidder or Proposer, each Offeror's security shall be returned. The Offeror who is awarded a Contract and who, within the schedule set forth in the Solicitation Documents, fails to enter into a Contract, shall forfeit the Bid or Proposal security that accompanied the successful Offer. Any forfeit of security shall be considered as liquidated damages and not a penalty for failure of the Offeror to execute the Contract. Failure of an Offeror to negotiate in good faith for a Contract following the submission of a Bid or Proposal shall constitute grounds for retention of Bid or Proposal security, but the mere failure of a Bidder or Proposer to reach agreement with LRAPA concerning any terms and conditions of the Contract that were reserved for negotiation shall not be grounds for the retention of such security. Notwithstanding the foregoing, Bid or Proposal security shall be returned upon expiration of the period for which the Bids or Proposals are irrevocable unless an Offeror agrees in writing to extend its Offer or, in the case of the Offeror selected for award, the execution of a Contract is delayed by the Offeror.

5. Brand Name Products.

- A. In General. Specifications for Contracts shall not expressly or implicitly require any product by one brand name or mark, nor the product of one particular manufacturer or seller, except for the following reasons:
 - (1) It is unlikely that such exemption will encourage favoritism in the awarding of Public Contracts or substantially diminish competition for Public Contracts;
 - (2) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to LRAPA;

- (3) There is only one manufacturer or seller of the product of the quality required; or
- (4) Efficient utilization or maintenance of existing equipment, supplies or products requires the purchase of one particular manufacturer.

B. Brand Name or Equal.

- (1) A brand name or equal specification may be used when the use of a brand name or equal specification is advantageous to LRAPA because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by LRAPA.
- (2) The Purchasing Agent is entitled to determine what constitutes a product that is equal or superior to the product specified, and any such determination is final.
- (3) Nothing in this section may be construed as prohibiting LRAPA from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the contracting agency.

C. Qualified Product Lists.

- (1) The Purchasing Agent may develop and maintain a qualified products list in instances in which the testing or examination of Goods before procurement is necessary or desirable in order to best satisfy the requirements of LRAPA. For purposes of this section, "Goods" includes products that have associated or incidental service components, such as supplier warranty obligations or maintenance service programs.
- (2) In the initial development of any qualified products list, LRAPA shall give public notice, in the same way that Solicitations for procurements are issued, of the opportunity for potential Contractors, sellers or suppliers to submit Goods for testing and examination to determine their acceptability for inclusion on the list and may solicit in writing representative groups of potential Contractors, sellers or suppliers to submit Goods for the testing and examination. Any potential Contractor, seller or supplier, even though not solicited, may offer its Goods for consideration.
- (3) LRAPA's inclusion of Goods on a qualified products list shall be based on the results of tests or examinations. Notwithstanding any provision of ORS 192.410 to 192.505, LRAPA may make the test or examination results public in a manner that protects the identity of the potential Contractor, seller or supplier that offered the Goods for testing or

examination, including by using only numerical designations. Notwithstanding any provision of ORS 192.410 to 192.505, LRAPA may keep confidential trade secrets, test data and similar information provided by a potential Contractor, seller or supplier if so requested in writing by the potential Contractor, seller or supplier.

- (4) The inclusion of Goods on a qualified products list does not constitute and may not be construed as a prequalification under ORS 279B.120 and 279B.125 of any prospective Contractor, seller or supplier of Goods on the qualified products list.
- 6. Record of Potential Offerors. A record shall be maintained and made available to the public for review that identifies all entities that receive Solicitation Documents from LRAPA.
- 7. Protests of Solicitation Procedures.
 - A. Definitions. As used in this section:
 - (1) "Brand name" means a brand name specification as defined in ORS 279B.200.
 - (2) "Legally flawed" means that a Solicitation Document contains terms or conditions that are contrary to law.
 - (3) "Unnecessarily restrictive" means that specifications limit competition arbitrarily, without reasonably promoting the fulfillment of the procurement needs of LRAPA.
 - B. Protests Generally. A prospective Offeror for a Contract may file a protest with LRAPA if the prospective Offeror believes that the procurement process is contrary to law or that a Solicitation Document is unnecessarily restrictive, is legally flawed or improperly specifies a brand name. If a prospective Offeror fails to timely file such a protest, the prospective Offeror may not challenge the Contract on grounds under this section in any future legal or administrative proceeding.
 - C. Exception for Special Procurements. Notwithstanding the provisions of Subsection 1-035.7.C a Contract-specific special procurement awarded under these Rules may not be protested, challenged or reviewed unless the approval of the special procurement by the Board has been invalidated by a reviewing circuit court under ORS 279B.400.
 - D. Time for Submission of Protest. Protests of a Solicitation shall only be considered when presented to the Purchasing Agent or the person identified in the

Solicitation Documents for receipt of protests, if different, in writing, in accordance with the following timelines:

- (1) Protests shall be submitted in writing not less than ten (10) Days prior to the Solicitation Closing unless the Solicitation period is shorter than fifteen (15) Days, in which case the Solicitation Documents shall recite another protest deadline that allows a period of at least three (3) business days after the date of the Solicitation Opening to submit protests; and
 - (2) Protests not asserted or not properly asserted within these timelines shall be deemed waived by the protester.
- E. Identification of Protest. It is the protester's responsibility to ensure that the protest is received by LRAPA within the stated timelines. The protest should be delivered in an envelope, directed to the Purchasing Agent or the person identified in the Solicitation Documents for receipt of protests, if different, that is clearly marked with the protester's name, the ITB or RFP number, the project name, if any, date and time of Solicitation Closing, and identified as a "Solicitation Document Protest." Protests delivered via facsimile shall not be accepted.
- F. Eligibility for Consideration. The Purchasing Agent shall consider the protest if the protest is timely filed and contains the following:
- (1) Sufficient information to identify the Solicitation that is the subject of the protest;
 - (2) The grounds that demonstrate how the procurement process is contrary to law or how the Solicitation Document is unnecessarily restrictive, is legally flawed or improperly specifies a brand name;
 - (3) Evidence or supporting documentation that supports the grounds on which the protest is based; and
 - (4) The relief sought.
- G. Form of Decision. If the protest is timely submitted and contains the required information, the Purchasing Agent shall consider the protest and issue a decision in writing. Otherwise, the Purchasing Agent shall promptly notify the Offeror, in writing, that the protest is untimely or that the protest failed to meet the requirements of this section and give the reasons for the failure.
- H. Time of Decision. The Purchasing Agent shall issue a decision no less than three (3) business days before the Solicitation Closing, unless a written determination is made by the Purchasing Agent that circumstances exist that require a shorter time limit.

- I. Appeal. The Purchasing Agent's decision may be appealed to the Board by providing the Executive Director a written appeal within three (3) business days after the date on which the Purchasing Agent sends his or her decision to the Proposer's postal address specified in the written protest.
 - J. Finality of Decision. The decision of the Board or if no appeal is made to the Board, of the Purchasing Agent, shall be the final determination of LRAPA on the protest.
 - K. Delay of Solicitation Closing. If LRAPA receives a protest from a Offeror in accordance with this section, the Purchasing Agent may, in his or her discretion, extend the date of Solicitation Closing if the Purchasing Agent determines an extension is necessary to consider the protest and, if necessary, to issue Addenda to the Solicitation Documents or otherwise cancel the Solicitation
8. Request for Clarification or to Propose Substitution or Modification. Prior to the deadline for submitting a protest, or at such other time as the Solicitation Documents may otherwise specify, a Bidder or Proposer may request that the Purchasing Agent clarify any provision of the Solicitation Documents or may propose a change, modification or substitution, including, without limitation, a modification to Contract terms or conditions or a modification of the plans or specifications for a project. The clarification to a potential Offeror, whether orally or in writing, does not change the Solicitation Documents and is not binding on LRAPA unless LRAPA amends the Solicitation Documents by Addenda. Failure to timely request clarification or submit a request for substitution or modification shall be deemed acceptance of all of the terms and conditions of the Solicitation Documents.
9. Addenda to Solicitation Documents.
- A. Form. Changes to Solicitation Documents shall be made by written Addenda. The Offeror shall acknowledge, in writing, receipt of all Addenda issued, on the Bid or Proposal form, or separately by letter, prior to the Solicitation Closing.
 - B. Distribution. Addenda shall be sent by mail, fax or e-mail to every prospective Offeror on file with LRAPA who has obtained the Solicitation Documents from LRAPA.
 - C. Timeliness. Addenda shall be issued at least three (3) business days prior to the Closing, unless otherwise stated in the Solicitation Documents or subsequent Addenda.
10. Pre-Closing Modification of Offers and Withdrawal of Offers.
- A. Modifications. An Offer, once submitted, may be modified in writing by the Offeror prior to the time and date set for Solicitation Closing. Any modifications shall be prepared on the company letterhead, signed by an authorized

representative of the Offeror, and state that the new document supersedes or modifies the prior Offer. It is the Offeror's responsibility to ensure that the modification is received by LRAPA prior to the date and time established for Solicitation Closing. The modification should be delivered in an envelope that is clearly marked with the Offeror's name, the Solicitation number, the project name, if any, the date and time of Solicitation Closing, and identified as a "Bid Modification" or "Proposal Modification."

B. Withdrawals Prior to Solicitation Closing.

(1) Offers may be withdrawn by written notification on company letterhead signed by an authorized representative of the Offeror and received prior to the date and time established for the Solicitation Closing. It is the Offeror's responsibility to ensure that the withdrawal is delivered to LRAPA in an envelope that is clearly marked with the Offeror's name, the Solicitation number, the project name, if any, the date and time of Solicitation Closing, and identified as "Bid Withdrawal" or "Proposal Withdrawal."

(2) Withdrawn Offers shall be returned to the Offeror unopened.

11. Manner of Offer.

A. Documents. Completed Offer forms and documents as specified or provided in the Solicitation package furnished to Offerors must be typed or prepared in ink and signed by an authorized representative of the Offer. Alterations or erasures shall be initialed in ink by the person signing the Offer.

B. Samples and Descriptive Literature. Product samples, specifications or other descriptive information or literature may be required of each Offeror in order to evaluate required characteristics of the items offered. Submission requirements and information on returning items shall be included in the Solicitation Documents.

C. Identification of Offers. To ensure proper identification and special handling, Offers should be submitted to the address listed on the Solicitation notice in a Sealed envelope appropriately marked with the name of the Offer, the Solicitation number, the name of the project, and the date and time of the Closing. LRAPA shall not be responsible for the proper identification and handling of an Offer not in conformance with these requirements.

D. Receipt of Offer. It is the Offeror's responsibility to ensure that the Offer is received by LRAPA prior to the stated Closing.

(1) Receipt. Upon receipt by LRAPA, each Offer and modification shall be time stamped or marked by hand, not opened, and shall be stored in a secure place until the Offers are opened. If Offers or modifications are opened inadvertently or are opened prior to the time and date set for

Opening, the Offers shall be resealed and stored for Opening at the correct time. When this occurs, documentation of this procedure shall be placed in the Solicitation file.

- (2) **Opening and Recording.** Offers and modifications shall be opened publicly, immediately after the deadline for the submission of Offers and in the place designated by the Solicitation Documents. With regard to Bids, The Purchasing Agent shall designate representatives who will determine and declare the precise time of day for purposes of establishing the Bid submittal deadline, open each timely received Bid, read aloud the Bid price, and record Bid prices on a Bid tabulation sheet.
- (3) **Availability.** The opened Offers shall be available for public inspection subject to the need of LRAPA to evaluate such Offers prior to Notice of Intent to Award, except to the extent the Offeror designates trade secrets or other proprietary data to be confidential. LRAPA legal counsel shall verify and determine that the confidential information claimed to be exempt is in fact exempt from disclosure under the Oregon Public Records Law. Material so designated shall accompany the Offer and shall be readily separable from the Offer in order to facilitate public inspection of the non-confidential portion of the Offer. Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment shall be publicly available regardless of any designation to the contrary.

E. **Late Offers, Late Withdrawals, and Late Modifications.** An Offer received after Closing is late. Any request for Offer withdrawal or modification received after Closing is late. A late Offer, late Offer modification, or late Offer withdrawal shall not be considered and shall be returned to the Offeror unopened unless the Purchasing Agent, in his or her discretion, determines that the late submittal or withdrawal increases competition, does not prejudice any Offeror, does not compromise the integrity of the competitive system or is in the best interest of LRAPA.

F. **Mistakes in Offers.**

- (1) **General.** Clarification or withdrawal of an Offer because of an inadvertent, nonjudgmental mistake in the Offer requires careful consideration to protect the integrity of the competitive bidding system and to ensure fairness. Except as provided in this Rule, if the mistake is attributable to an error in judgment, the Offer may not be corrected. Offer correction or withdrawal by reason of a nonjudgmental mistake is permissible but only to the extent it is not contrary to the interest of LRAPA or does not prejudice other Offerors.
- (2) **Mistakes Discovered Before Offers Are Opened.** Mistakes discovered before Offers are opened may be corrected as provided above.

(3) Mistakes Discovered After Offers Are Opened But Before Award.

(a) Minor Informalities.

- (i) Definition. Minor informalities are matters of form rather than substance or insignificant mistakes that can be waived or corrected without prejudice to other Offerors or LRAPA.
- (ii) Examples. Minor informalities include, but are not limited to, an Offeror's failure to return the required number of signed Solicitation Documents; failure to sign in the designated block so long as the Solicitation Documents otherwise evidence an intent to be bound; or failure to acknowledge receipt of an Addendum to the Solicitation Documents if it is clear that the Offeror received the Addendum and intended to be bound by its terms or if the Addendum did not affect price, quantity, quality or delivery time.
- (iii) Not Included. Minor informalities do not include mistakes that affect price, quantity, quality, delivery, or contractual conditions except in the case of informalities involving unit price.
- (iv) Procedure. If LRAPA discovers a minor informality after Offers are opened but before award, LRAPA may, in its discretion, correct or waive the minor informality if it is in its interest to do so and may request a written clarification from an Offeror or make other determinations.

(b) Mistakes Where Intended Offer is Not Evident. The Purchasing Agent must reject an Offer in which a mistake is clearly evident on the face of the Offer, and the intended Offer is not clearly evident or cannot be substantiated from accompanying documents or objectively verified through other means.

12. Irrevocability of Offer During Time for Consideration. Offers shall be valid and irrevocable for sixty (60) Days after the Offers are opened, or for the number of Days specified in the Solicitation Documents. If circumstances arise that require an extension of time for consideration of award after the Offers have been opened, the Purchasing Agent may request in writing that the Offerors extend the time during which LRAPA may accept their Offers.

13. Cancellation of Solicitation.

- A. Cancellation in the Public Interest. A Solicitation may be cancelled, in whole or in part, when it is determined by the Purchasing Agent to be in the public interest to do so. The reasons for cancellation shall be documented and be made part of the Solicitation file. Cancellation may be made at any time prior to LRAPA's execution of the Contract.
 - B. Cancellation When Offer Period Expires. The Solicitation will be cancelled if the time for consideration of Offers has expired without an award, unless the extension of time has been mutually agreed upon in writing between LRAPA and one or more Offerors, including the apparent low Bidder in the case of Bids.
 - C. Cancellation Prior to Closing. When a Solicitation is cancelled prior to Closing, a written notice of cancellation shall be sent to all holders of Solicitation Documents. All Offers received shall be returned to Offerors unopened. When a Solicitation is cancelled after the Offers are opened but prior to award, the notice shall be sent to all responsive Offerors. After the notice of intent to award is given, notice is required to be given only to the successful Offeror.
 - D. Cancellation After Closing; Retention of Offers. In the event that a Solicitation is cancelled after Closing and Offers are opened, all Offers received shall become part of the Solicitation file and the security bonds, if any, shall be returned.
14. Negotiation When Bids or Quotes Exceed Estimates. Whenever all Bids or Quotes received under a price-based Solicitation method exceed the Purchasing Agent's estimate for the project or procurement, the Purchasing Agent may negotiate the Contract Price with the Offeror that has submitted the lowest responsible Bid or Quote. The Purchasing Agent may negotiate changes to the Goods, project or Services that reduce the price as well as changes to Contract provisions that are not required by law or these Rules, so long as the scope of the Contract is not changed. For purposes of this Rule, the scope of a Contract is changed if the pool of potential Offerors who would qualify to submit Bids or Quotes under a new Solicitation would be different from or larger than the pool of potential Offerors who were qualified to submit Bids or Quotes under the initial Solicitation.
15. Notice of Intent. The Purchasing Agent may, but shall not be required to issue a notice of intent to renew or award any Contract which is not awarded pursuant to an advertised Invitation to Bid or Request for Proposals. Publication may be made in a newspaper of general circulation in the greater Eugene area, or by electronic publication intended to reach a sufficient number of persons who would be qualified to perform the type of Services described in the Contract. If given, a notice shall offer qualified persons an opportunity to protest the renewal or award by submitting a written protest under these Rules, but unless such notice is issued, no person shall be an aggrieved Proposer with respect to the renewal or award of the Contract.
16. Protest of Awards.

- A. Delay of Award. The Purchasing Agent will not execute a Contract awarded using Quotes, or under an advertised Solicitation, and no award will be final until the period of time for filing a protest of award has expired and the Purchasing Agent has responded to all timely filed protests of aggrieved Offerors.
- B. Definition of Aggrieved Offeror. An Offeror is an aggrieved Offeror only if the person or Entity is one to whom a notice of selection of a competitive tier or notice of an intent to award has been, or should have been, sent, and such person or Entity has been erroneously denied the award of a Contract or has been erroneously eliminated from competition for a Contract because:
- (1) All higher-ranked Offerors were non-responsive or all higher-ranked Offerors clearly failed to meet the Standards of Responsibility;
 - (2) The evaluation of Offers was not conducted in accordance with the criteria or processes described in the Solicitation Documents;
 - (3) The evaluator abused his or her discretion in disqualifying the protester's Offer as Non-responsive or as failing to meet the Standards of Responsibility; or
 - (4) The evaluation of Offers or subsequent determination of award was otherwise made in violation of the Public Contracting Code or these Rules.
- C. Filing of Protests. Unless a longer or shorter time period is provided in the Solicitation Documents, an aggrieved Offeror shall have three (3) business days after the date of issuance of the notice of intent to award, or notice of Proposers selected to advance to a tier of competition, to submit to the Purchasing Agent or to the person identified in the Solicitation Documents for receipt of protests, if different, a written protest of the matter described in the award. The written protest must specify the grounds upon which the protest is based, demonstrate the basis for the protestor's status as an aggrieved Offeror, and include a postal address at which the protestor will receive the Purchasing Agent's response. Notwithstanding the foregoing, the period of protest may not be shorter than three (3) business days after the date of notice, unless the Purchasing Agent determines that the immediate execution of a Contract is necessary to avoid a loss of funding for the Contract or that further delay in execution will result in injury, property damage or other serious adverse consequences.
- D. Authority to Resolve Protests. The Purchasing Agent shall consider a written protest and issue a written decision on the protest. The Purchasing Agent may not consider a protest that is filed in an untimely manner or that fails to allege facts that would support a finding that the protestor is an aggrieved Offeror. The Purchasing Agent's decision may be appealed to the Board by providing a written appeal to the Executive Director within three (3) business days after the date on

which the Purchasing Agent sends its decision to the Offeror's postal address specified in the written protest. The decision of the Board or, if no timely appeal to the Board is made, the decision of the Purchasing Agent shall be the final decision of LRAPA on the protest.

Section 1-040 Competitive Sealed Bids

1. Contents of Bid Documents. The Bid Documents shall provide sufficient information for prospective Bidders to evaluate their interest and qualifications to supply the specified Goods or Services, and to determine a Bid price. Prior to the submittal date, Bidders shall have the opportunity to review all LRAPA background documents as described and in the manner set forth in the Bid Documents. The Bid Documents, at a minimum, shall include the following:
 - A. The Closing date and time after which Bids will not be received and the place at which the Bids may be submitted;
 - B. The name and title of the person designated for receipt of Bids, the date, time and place for the Opening of Bids, and the contact person for the Solicitation, if different;
 - C. A description of the Goods or Services desired, specifications and drawings, delivery or performance schedule, inspection and acceptance requirements, and overall scope of work and other information, including the project management structure and the support or resources to be provided by LRAPA, if any;
 - D. The form and instructions for submission of Bids and any other special information;
 - E. The anticipated Solicitation schedule, deadlines, protest process, and evaluation process;
 - F. The date, time and place that the Bids will be publicly opened;
 - G. Explanation of how LRAPA will notify Bidders of Addenda and how LRAPA will make the Addenda available;
 - H. If LRAPA intends to award Contracts to more than one Bidder pursuant to OAR 137-047-0600(4), a description of the manner in which LRAPA will determine the award;
 - I. A description of applicable policy and program compliance to include Disparity Program requirements, if any;
 - J. The manner and time in which protests that the Bid process is contrary to law or that a Bid Document is unnecessarily restrictive, is legally flawed or improperly

specifies a brand name may be submitted, the name and title of the person designated to receive protests, the manner in which the Purchasing Agent will respond to the protest and the protester's rights of appeal to the Board, if any;

- K. The manner and time in which potential Bidders may submit requests for clarification, substitution and modification to the Solicitation Documents, the name and title of the person designated to receive such requests and a description of the manner in which LRAPA will respond to requests and issue written Addenda;
- L. Special evaluation criteria, if any;
- M. The date, time and place of the pre-Closing conference, if any, whether attendance is mandatory or voluntary, and a provision that statements made by LRAPA's representatives at the conference are not binding upon LRAPA unless confirmed by written Addendum;
- N. A statement that LRAPA may, in its discretion, reject any Bid that does not comply with all prescribed public procurement procedures and requirements;
- O. A statement that LRAPA may reject for good cause any or all Bids and/or cancel or delay the Solicitation, or cancel an award at any time prior to execution upon LRAPA's finding that it is in the public interest to do so and a statement that the cost of submission of a Bid is not recoverable upon such rejection, delay or cancellation;
- P. A statement that the Bid must contain a statement indicating whether the Bidder is a "Resident Bidder," as defined in ORS 279A.120;
- Q. A statement, if the Contract is for Public Works subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276a), no Bid will be received or considered by LRAPA unless the Bid contains a statement by the Bidder that ORS 279C.840 or 40 U.S.C. 276a will be complied with;
- R. Information addressing whether a Contractor or subcontractor must be licensed under ORS 468A.720 (asbestos abatement);
- S. The address of the office where the specifications of the work, material or things may be reviewed or obtained;
- T. Bid security requirements, if any;
- U. Contract provisions, terms and conditions to be tendered to the successful Bidder, including a provision indicating whether the successful Bidder can assign the Contract, delegate its duties, or subcontract the delivery of the Goods or Services without prior written approval of LRAPA;

- V. A statement that the Bidder is required to certify that the Bidder has not discriminated against minority, women or emergency small business enterprises in obtaining any required subcontracts;
 - W. A statement that the Bidder must provide a valid city business license, if applicable, Construction Contractors Board (CCB) license or other license as may be required;
 - X. If a multi-year Contract, a provision that makes the Contract subject to appropriation of funds and allows LRAPA to modify, amend or terminate without prejudice;
 - Y. A statement that Bidders are responsible for noting and abiding by the terms and conditions included in the Bid Documents and Addenda and by LRAPA's Public Contracting Rules; and
 - Z. A statement that by signing and submitting the Bid form, the Bidder is acknowledging acceptance of and the intent to abide by the terms and conditions of the Bid Documents and form of Contract to be entered into.
2. Deposit for Bid Documents. LRAPA may require a deposit or charge for reasonable costs for Bid Documents and mailing. A deposit may also be required when, in the judgment of the Purchasing Agent, it is necessary to encourage the return of detailed plans, specifications or other supporting information used by potential Bidders in preparing the Bid.
3. Negotiation with Bidders.
- A. General. There shall be no negotiations with any Bidder prior to the award of a Contract.
 - B. All Bids Exceeding Cost Estimates. If a project is competitively bid and all responsive Bids from reasonable Bidders exceed the project cost estimate, LRAPA may negotiate with the lowest Responsible Bidder.
4. Bid Evaluation.
- A. General. The Contract, if awarded, shall be awarded to the lowest responsive and Responsible Bidder who meets the Standards of Responsibility applicable to the Contract. The Purchasing Agent reserves the right to waive any informality in a Bid; reject any Bid not in compliance with the Bid Documents; reject any Bid not in compliance with these Rules or state statute regarding public contracting; or reject all Bids as provided in these Rules.

- B. Bid Tabulation Sheet. The Purchasing Agent shall ensure that a written record is produced that indicates how each Bid responds to the criteria set forth in the Bid Documents. The Bid tabulation sheet shall be made available upon request for public review after LRAPA has evaluated all Bids.
- C. Special Requirements to Determine Responsiveness.
- (1) General. The Bid Documents shall set forth any special requirements and criteria that will be used to determine which Bidders are responsive Bidders.
 - (2) Review of Unit Bid Prices. Unit Bid prices or Bid alternatives will be reviewed for unbalanced pricing or Bid loading.
 - (3) Considerations for Establishing Special Requirements. Any special requirements need not be precise predictors of actual future costs, but to the extent possible, such requirements shall:
 - (a) Be reasonable estimates based upon information LRAPA has available concerning future use; and
 - (b) Treat all Bids equitably.
 - (4) Special Requirements. Examples of special requirements include, but are not limited to transportation costs, volume weighing, trade-in allowance, depreciation allowances, cartage penalties and ownership or life cycle cost formulas.
- D. Product or Service Acceptability.
- (1) The Bid Documents shall set forth the criteria to be used in determining product or Service acceptability. The Purchasing Agent may require the submission of samples, descriptive literature, technical data, or other material, and may also require any of the following prior to award:
 - (a) Demonstration, inspection or testing of a product or Service prior to award for such characteristics as quality of workmanship;
 - (b) Examination of such elements as appearance, finish, taste, or feel; or
 - (c) Other examinations to determine whether the product or Service conforms to the Bid Documents.
 - (2) The acceptability evaluation is conducted only to determine that a Bid is responsive to the Bid Documents. A Bidder's product or Service that does

not meet the minimum requirements may be rejected in LRAPA's discretion. Product or Service rejections are not considered Debarments and are not grounds for appeal under state law.

- (3) In the case of a non-Resident Bidder, the Purchasing Agent shall add a percentage increase to the Bid equal to the percentage, if any, of the preference given to that Bidder in the state in which the Bidder resides. For the purposes of administering this section, LRAPA shall rely on information published annually by the Oregon Department of Administrative Services and shall only apply the percentage increase if such application is consistent with applicable federal laws.

E. Low Tie Bids. Low tie Bids are Bids from responsive and Responsible Bidders that are identical in price, fitness, availability and quality and that meet all the requirements and criteria set forth in the Bid Documents. Low tie Bids shall be awarded as follows:

- (1) LRAPA shall prefer Goods or Services that have been manufactured or produced in this state pursuant to ORS 279.021(1); or if still tied,
- (2) LRAPA shall then prefer the Bidder whose principal offices or headquarters are located in Oregon; or if still tied,
- (3) LRAPA shall then prefer the Bidder whose principal offices or headquarters are located in Lane County; or if still tied,
- (4) Award shall be made by drawing lots among the remaining Bidders. Such Bidders shall be given notice and an opportunity to be present when the lots are drawn.
- (5) If none of the tied Bidders is located in Oregon, award of the Contract shall be made by drawing lots. Such Bidders shall be given notice and an opportunity to be present when the lots are drawn.

5. Rejection of Individual Bids. The Purchasing Agent may reject any Bid or any separate alternate Bid required or permitted by the Bid Documents that is not responsive or any Bidder that does not meet the Standards of Responsibility applicable to the Contract.

6. Contract Award.

A. Notice of Intent to Award. Unless otherwise provided in the Bid Documents, the Purchasing Agent shall provide written notice by regular mail or facsimile to all Bidders of LRAPA's intent to award the Contract. The notice of award shall not be final until the later of the following:

- (1) Seven (7) Days after the date of the notice, unless otherwise provided in the Bid Documents; or
 - (2) Until the Purchasing Agent provides a written response to all timely filed protests, if any, that denies the protest and affirms the award; or
 - (3) Until any appeal of the Purchasing Agent's decision regarding a protest has been reviewed by the Board
- B. Prompt Execution of Contract. Upon notice of Contract award, the successful Bidder shall furnish insurance and bond information within the timelines set forth in the Bid. Failure to execute the Contract or to provide the required information within the required timelines may result in the rejection of the Bid.
- C. Non-Resident Bidder. If the Contract Price exceeds \$10,000, and the Contractor is a contract non-Resident Bidder, the Contractor shall promptly report to the Oregon Department of Revenue on forms provided by the Department of Revenue, the Contract terms of payment, length of Contract and such other information as the Department of Revenue may require before final payment can be received on the Contract. A copy of the report shall be forwarded to LRAPA. LRAPA shall satisfy itself that the above requirements have been complied with before it issues final payment.
- D. Public Improvement Contracts: Performance Bond; Payment Bond; Waiver of Bonds in Case of Emergency; Public Works Bond. A successful Bidder or Proposer for a Public Improvement Contract in excess of \$50,000 shall promptly execute and deliver to LRAPA the following bonds:
- (1) A performance bond in an amount equal to the full Contract Price conditioned on the faithful performance of the Contract in accordance with the plans, specifications and conditions of the Contract. The Performance Bond must be solely for the protection of LRAPA. If the Public Improvement Contract is with a single person to provide both Public Improvement design and construction, the obligation of the performance bond for the faithful performance of the Contract must also be for the preparation and completion of the design and related services covered under the Contract. Notwithstanding when a cause of action, claim or demand accrues or arises, the surety is not liable after final completion of the Contract, or longer if provided for in the Contract, for damages of any nature, economic or otherwise, including corrective work attributable to the design aspect of such a project, or for the costs of design revisions needed to implement corrective work. The Board may waive the requirement of a performance bond. The Purchasing Agent may permit the successful Bidder to submit a cashier's check or certified check in lieu of all or a portion of the required performance bond.

- (2) A payment bond in an amount equal to the full Contract Price, solely for the protection of claimants under ORS 279C.600.
- (3) If the Public Improvement Contract is with a single person or Entity to provide construction manager and general contractor services, in which a guaranteed maximum price may be established by an amendment authorizing construction period services following preconstruction period services, the Contractor shall provide the required performance and payment bonds upon execution of an amendment establishing the guaranteed maximum price. LRAPA shall also require the Contractor to provide bonds equal to the value of construction services authorized by any early work amendment in advance of the guaranteed maximum price amendment. Such bonds must be provided before construction starts.
- (4) Each performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state. The bonds may not constitute the surety obligation of an individual or individuals. The performance and payment bonds must be payable to LRAPA, and shall be in a form approved by LRAPA.
- (5) In cases of Emergency, or when the interest or property of LRAPA probably would suffer material injury by delay or other cause, the requirement of furnishing a good and sufficient performance bond and a good and sufficient payment bond for the faithful performance of any Public Improvement Contract may be excused, if a declaration of such Emergency is made in accordance with these Rules.
- (6) Unless exempt under ORS 279C.836(7) or (8), the Contractor under a Public Improvement Contract shall file with the Construction Contractors Board a Public Works bond with a corporate surety authorized to do business in this state in the amount of Thirty Thousand Dollars (\$30,000). The bond must provide that the Contractor will pay claims ordered by the Bureau of Labor and Industries to workers performing labor on Public Works projects. Before permitting a subcontractor to start work on a Public Works project, the Contractor shall verify the subcontractor has also filed a Public Works bond with the Construction Contractors Board. Before starting work on the Public Improvement Contract, the Contractor shall provide LRAPA with a written statement certifying the Contractor and any subcontractors have filed a Public Works bond as required in this subsection.
- (7) The Purchasing Agent may require payment and performance bonds for other Public Contracts. Such requirements shall be expressly set forth in the Bid Documents.

- (8) Upon LRAPA's request, the apparent successful Bidder must furnish the required payment and performance bonds within ten (10) Days, but in no event may the bonds be delivered after the commencement of the labor or other Services the payment and performance of which are to be secured by the bonds. If the Bidder fails to furnish the bond within the ten (10) Day period, LRAPA may reject the Bid and award the Contract to the next lowest responsive and Responsible Bidder, and, at LRAPA's discretion, the Bidder shall forfeit its Bid security.

Section 1-045 Requests for Proposals

1. Contents of Request Documents. A Request for Proposals must contain the same materials and information as the Bid Documents. In addition, the Request for Proposals Solicitation Documents must:
 - A. Negotiable Contract Provisions. Identify those contractual terms or conditions, if any, that LRAPA wishes to reserve for negotiation with Proposers, and may also:
 - (1) Request that Proposers propose contractual terms and conditions that relate to subject matter reasonably identified in the Request for Proposals; or
 - (2) Contain or incorporate the form and content of the Contract that LRAPA will accept, or suggested Contract terms and conditions that nevertheless may be the subject of negotiations with Proposers.
 - B. Method of Selection. Announce the method of Contractor selection that LRAPA intends or reserves the right to use, which methods may include, but are not limited to, negotiations with the highest ranked Proposer, competitive simultaneous or ranked negotiations, multiple-tiered competition designed to identify a class of Proposers that fall within a competitive range or to otherwise eliminate from consideration a class of lower-ranked Proposers, or any combination of methods;
 - C. Evaluation Criteria. Contain a description of the manner in which Proposals will be evaluated, including the relative importance of price and any other evaluation factors used to rate the Proposals in the first tier of competition, and if more than one tier of competitive evaluation may be used, a description of the process under which the Purchasing Agent will develop and provide notice of the criteria and evaluation methods to be used in each subsequent tier; and
 - D. Time for Consideration. Contain a description of the period of time during which Proposals may be considered and will be irrevocable and may provide for extension of the time for consideration of Proposals for Proposers who proceed into competitive range evaluations.
2. Disclosure of Proposals.

- A. Before Award. Notwithstanding ORS 192.410 to 192.505, Proposals may be opened in a manner to avoid disclosure of contents to competing Proposers during, when applicable, the process of negotiation, but the LRAPA shall record and make available the identity of all Proposers as part of LRAPA's public records from and after the Opening of the Proposals. Notwithstanding ORS 192.410 to 192.505, Proposals are not required to be open for public inspection until after the notice of intent to award a Contract is issued. The fact that Proposals are opened at a meeting, as defined in ORS 192.610, does not make their contents subject to disclosure, regardless of whether the public body opening the Proposals fails to give notice of or provide for an executive session for the purpose of opening Proposals.
 - B. After Intent to Award. Notwithstanding any requirement to make Proposals open to public inspection after LRAPA's issuance of notice of intent to award a Contract, LRAPA may withhold from disclosure to the public materials included in a Proposal that are exempt or conditionally exempt from disclosure under ORS 192.501 or 192.502.
 - C. Prior to Solicitation Closing. If a Request for Proposals is cancelled after Proposals are received, but prior to the Closing of the Proposals, LRAPA may return a Proposal to the Proposer that made the Offer. LRAPA shall keep a list of returned Proposals in the file for the Solicitation.
- 3. Tours, Demonstrations and Discussions. As provided in the Request for Proposals or in written Addenda issued thereunder, LRAPA may conduct site tours, demonstrations, individual or group discussions and other informational activities with Proposers before or after the opening of Proposals for the purpose of clarification to ensure full understanding of, and responsiveness to, the Solicitation requirements or to consider and respond to requests for modifications of the Proposal requirements. LRAPA shall use procedures designed to accord Proposers fair and equal treatment with respect to any opportunity for discussion and revision of Proposals.
 - 4. Methods of Selection. For purposes of evaluation, when provided for in the Request for Proposals, or in written Addenda issued at any time during the Solicitation, LRAPA may employ methods of Contractor selection that include, but are not limited to:
 - A. An award or awards based solely on the ranking of initially submitted Proposals;
 - B. Discussions leading to best and final Offers, in which LRAPA may not disclose private discussions leading to best and final Offers;
 - C. Discussions leading to best and final Offers, in which LRAPA may not disclose information derived from Proposals submitted by competing Proposers;

- D. Serial negotiations, beginning with the highest-ranked Proposer and negotiating with the second-ranked Proposer only after the highest-ranked Proposer is eliminated;
- E. Competitive negotiations in which LRAPA enters into separate but simultaneous negotiations with all Proposers in a final competitive tier;
- F. Multiple-tiered competition designed to identify, at each level, a class of Proposers that fall within a competitive range or to otherwise eliminate from consideration a class of lower-ranked Proposers;
- G. A multi-step Request for Proposers requesting the submission of unpriced technical submittals, and then later issuing a Request for Proposals limited to the Proposers whose technical submittals LRAPA had determined to be qualified under the criteria set forth in the initial Request for Proposals; or
- H. Any combination of methods described in this paragraph, as determined by the Purchasing Agent to be most likely to result in selection of the Contractor who will best serve the needs of LRAPA.

Revisions of Proposals may be permitted after the submission of Proposals and before award during negotiations or during any competitive range evaluation.

- 5. **Post-Closing Addenda.** After the opening of Proposals, LRAPA may issue or electronically post an Addendum to the Request for Proposals that modifies the criteria, rating process and procedure for any tier of competition before the start of the tier to which the Addendum applies. LRAPA shall send an Addendum that is issued by a method other than electronic posting to all Proposers who are eligible to compete under the Addendum. LRAPA shall issue or post the Addendum at least five (5) Days before the start of the subject tier of competition or as otherwise determined by LRAPA to be adequate to allow eligible Proposers to prepare for the ensuing competition.
- 6. **Notice of Competitive Range.** In the Request for Proposals, LRAPA shall describe the methods by which LRAPA will make the results of each tier of competitive evaluation available to the Proposers who competed in the tier. LRAPA shall include a description of the manner in which the Proposers who are eliminated from further competition may protest or otherwise object to the Purchasing Agent's decision.
- 7. **Posting of Notice of Intent.** LRAPA shall issue the notice of intent to award to, at a minimum, each Proposer who was evaluated in the final competitive tier.
- 8. **Selection for Award.** If a Contract is awarded, LRAPA shall award the Contract to the Responsible Proposer whose Proposal LRAPA determines in writing to be the most advantageous to LRAPA based on the evaluation process and evaluation factors described in the Request for Proposals, any applicable and federally-permissible preferences described in ORS 279A.120 and 279A.125 and, when applicable, the outcome of any negotiations authorized by the Request for Proposals. Other factors may

not be used in the evaluation. When the Request for Proposals specifies or authorizes the award of multiple Public Contracts, LRAPA shall award Public Contracts to the Responsible Proposers who qualify for the award of a Contract under the terms of the Request for Proposals.

9. Request for Preliminary Documents. LRAPA may issue a Request for Information, a Request for Interest, a Request for Qualifications or other preliminary documents to obtain information useful in the preparation of a Request for Proposals.
10. Cancellation of Solicitation. LRAPA may cancel a Solicitation under a Request for Proposals for the same reasons, and in the same manner, as is provided for cancellations of Solicitations under Invitations to Bid.

Section 1-050 Informal Solicitation

An informal Solicitation may be made by general or limited advertisement to a certain group of vendors, by direct inquiry to entities selected by the Purchasing Agent, or in any other manner which the Purchasing Agent deems suitable for obtaining competitive Quotes or Proposals.

1. A minimum of three (3) written or verbal Quotes or Proposals, based on a written scope of work approved by the Purchasing Agent, shall be obtained. The written description shall also describe the criteria for award.
2. A written record of all Entities solicited and Quotes or Proposals received shall be maintained. If three (3) Quotes are not available, a lesser number will suffice, provided that a written record is made of the effort to obtain the Quotes or Proposals.
3. If an original Contract does not exceed \$100,000, but it is anticipated that Amendments increasing the value of the Contract to greater than the limit will be negotiated, the selection of a Contractor to perform such work shall be guided by the process appropriate for the anticipated expenditure level.
4. If the award is made solely on the basis of price, LRAPA shall award the Contract to the Offeror that submits the lowest responsive Quote or Proposal and meets the Standards of Responsibility. If the award is based on criteria other than, or in addition to, price, LRAPA shall award the Contract to the Offeror that will best serve the interest of LRAPA, based on the criteria for award and the Standards of Responsibility.

Section 1-055 Contract Management

1. Amendments. No Amendment shall be made for the purpose of avoiding the requirement to issue a Request for Proposals or Invitation to Bid. Public Contracts may be amended in accordance with their terms, subject to the following limitations.
 - A. Amendments To Be in Writing. All amendments to a Public Contract must be in writing and executed by all parties to the Contract.

- B. Execution and Authorization. Unless expressly provided for in the Contract, an Amendment must be executed on behalf of LRAPA by the official who originally executed the Contract, or his or her successor.
 - C. Limit on Amendments. Except in cases of Emergency, no Contract Amendment shall:
 - (1) Extend the term of a fixed-term Contract except as provided in these Rules; or
 - (2) Increase the Contract Price by more than twenty percent (20%) over the threshold Contract Price that qualified the Contract for award by Quotes or discretionary award, unless required to comply with a law or regulation that was enacted or adopted after the execution of the Contract and not anticipated by either party.
2. Public Improvement Change Orders. The official or agent designated in a Public Improvement Contract may execute any Change Order for a modification of the Contract project subject to the following limitations:
- A. No Change Order, by itself or together with other Change Orders, shall so alter the project that a different or significantly larger pool of potential Contractors would have qualified to participate in the Solicitation if the Contract project had been described as modified by the Change Order(s).
 - B. No Change Order shall be made for the purpose of avoiding the requirement to issue a Request for Proposals or Invitation to Bid.
 - C. Notwithstanding any other provision of this section, the Purchasing Agent may expand a Public Improvement Contract that was awarded under a publicly advertised competitive Solicitation process to incorporate an additional project of the same type as the contracted project when the added project would qualify for award under an informal verbal or written Quote procedure and the addition of the project will result in an increase in safety, quality or cost savings to LRAPA that would not be available if the project was constructed under a separate Solicitation. The Purchasing Agent shall make a record of the facts that support the decision to expand the project.

Section 1-060 Performance and Liquidated Damages

Upon execution of the Contract and issuance of a Notice to Proceed, the successful Offeror shall complete the work according to the scope and schedule set forth in the Contract. Failure to satisfactorily complete all work within the specified performance period may result in the assessment of liquidated damages, termination, or other penalties as set forth in the Contract Documents.

Section 1-065 Debarment

1. General. LRAPA may in its discretion disqualify a prospective Contractor from consideration for award of LRAPA's Contracts for the reasons listed below after providing the prospective Contractor with notice and a reasonable opportunity to be heard. The Debarment shall not be for a period of more than three (3) years.
2. Reasons for Debarment. A prospective Contractor may be Debarred from eligibility for consideration for award of LRAPA's contracts for any of the following reasons:
 - A. Conviction for the commission of a criminal offense in obtaining or attempting to obtain a public or private Contract or subcontract, or in the performance of such Contract or subcontract;
 - B. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the prospective Offeror's responsibility as a Contractor;
 - C. Conviction under state or federal antitrust statutes; or
 - D. Violation of a Contract provision that is regarded by LRAPA to be so serious as to justify Debarment. A violation may include, but is not limited to a failure to perform the terms of a Contract or failure to comply with any provision of law applicable to the Contractor's performance of the Contract. However, a failure to perform or an unsatisfactory performance caused by acts beyond the control of the Contractor may not be considered to be a basis for Debarment.
3. Non-Waiver. The failure to Debar an Offeror for any of the above reasons shall not in any way impair or waive the Purchasing Agent's right to reject an Offer or Offeror as not responsive or not responsible.
4. Debarment Decision. LRAPA shall issue a written decision to Debar a prospective Offeror and shall provide the decision to the prospective Offeror immediately. The decision shall state the reasons for the action taken and inform the prospective Offeror of the right to appeal to the decision under these Rules.
 - A. Appeal of Disqualification. Any prospective Contractor who wishes to appeal Debarment as a Contractor shall, within three (3) business days after receipt of notice of Debarment, notify the Purchasing Agent that the prospective Contractor appeals the Debarment. Immediately upon receipt of such notice of appeal, the Board shall be notified.
 - B. Debarment Appeal Procedure. The procedure for appeal from a Debarment pursuant to ORS 279B.130 shall be in accordance with ORS 279B.425 and the

procedure for appeal from a Debarment pursuant to ORS 279C.440 through and including 279C.450. Debarment is not subject to ORS Chapter 183 et seq. except where specifically provided herein. The procedure shall be as follows:

- (1) Promptly upon receipt of notice of appeal, LRAPA shall notify the appellant of the time and place of the hearing;
- (2) The Board shall conduct the hearing and decide the appeal within thirty (30) Days after receiving notice of the appeal from the Purchasing Agent;
- (3) In the hearing, the Board shall consider de novo the notice of Debarment, the reasons listed for Debarment, and any evidence provided by the parties;
- (4) The Board shall set forth in writing the reasons for the decision;
- (5) The Board may allocate the Board's costs for the hearing between the appellant and LRAPA. The allocation shall be based upon facts found by the Board and stated in the Board's decision. If the Board does not allocate costs, the costs shall be paid by the losing party; and
- (6) The decision of the Board may be reviewed only upon a petition in the circuit court of Lane County filed within fifteen (15) Days after the date of the decision.

Section 1-070 Surplus Property

1. General Methods. Surplus property may be disposed of by any of the methods set forth in this section upon a determination by the Purchasing Agent that the method of disposal is in the best interest of LRAPA. Factors that may be considered by the Purchasing Agent include costs of sale, administrative costs and public benefits. The Purchasing Agent shall maintain a record of the reason for the disposal method selected and the manner of disposal. An advertisement required to be given under this section shall be published in a newspaper of general circulation in the Eugene area and in such media as the Purchasing Agent deems necessary to promote competition for the property being disposed of.
 - A. By transfer to another public agency;
 - B. By publicly advertised auction;
 - C. By publicly advertised Invitation to Bid;

- D. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with these Rules for the award of Personal Services Contracts;
 - E. By fixed price sale which shall be based on an appraisal or published schedule of values generally accepted by the insurance industry. The Purchasing Agent shall schedule and advertise a sale date and sell to the first buyer meeting the sales terms. The advertisement must be first published at least three (3) Days prior to the date upon which the Offers may be accepted;
 - F. By trade-in, in conjunction with the acquisition of other price-based items under a competitive Solicitation. The Solicitation shall require the Offer to state the total value assigned to the surplus property to be traded; or
 - G. By donation to any organization operating within or providing a service to residents of the Eugene area which is recognized by the Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code.
2. Disposal of Property with Minimal Value. Surplus property which has a value of less than \$500 or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost effective, including by disposal as waste. The Purchasing Agent shall make a record of the value of the item and the manner of disposal. Disposal of property to LRAPA employees under this section is strictly prohibited.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 11

POLICY AND GENERAL PROVISIONS

Section 11-005 Policy

In the interest of the public health and welfare of the people, it is declared to be the public policy of the Lane Regional Air Protection Agency to restore and maintain the quality of the air resources of the territory in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the territory. The program of this Agency for the control of air pollution shall be undertaken in a progressive manner, and each of its objectives shall be sought to be accomplished by cooperation and conciliation among all the parties concerned.

Section 11-010 Construction and Validity

If any provision of these rules shall be held void or unconstitutional by judicial or other determination, all other parts of these rules which are not expressly held to be void or unconstitutional shall continue in full force and effect.

These rules are not intended to permit any practice which is a violation of any statute, ordinance, order or regulation of this Agency or any other governmental unit and no provision contained in these Rules is intended to impair or abrogate any civil remedy or process, whether legal or equitable, which might otherwise be available to any person.

These rules are not intended to apply to the air quality requirements for the workroom atmosphere necessary to protect an employee's health from contaminants emitted by his employer, nor are they concerned with the occupational health factors in an employer-employee relationship.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 12

GENERAL PROVISIONS AND DEFINITIONS

Section 12-001 General

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

Section 12-005 Definitions

- "Act" or "FCAA" means the Federal Clean Air Act 42 U.S.C.A. §7401 to 7671q.
- "Activity" means any process, operation, action or reaction (e.g., chemical) at a source that emits a regulated pollutant.
- "Actual Emissions" means the mass emissions of a regulated pollutant from an emissions source during a specified time period as set forth in titles 34 and 42.
- "Adjacent" as used in the definitions of "major source" and "source" in 37-0070, means interdependent facilities that are nearby each other.
- "Affected Source," for the purposes of Title IV of the FCAA (Acid Rain) means a source that includes one or more affected units that are subject to emission reduction requirements or limitation.
- "Affected states," means all states:
 - A. Whose air quality may be affected by a proposed permit, permit modification, or permit renewal and that are contiguous to Oregon; or
 - B. That are within 50 miles of the permitted source.

- "Agency" means Lane Regional Air Protection Agency
- "Aggregate Insignificant Emissions" means the annual actual emissions of any regulated air pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities must be less than or equal to the lowest applicable level specified:
 - A. One (1) ton for each criteria pollutant (except lead), total reduced sulfur, hydrogen sulfide, sulfuric acid mist, any Class I or Class II substance subject to a standard promulgated under or established by Title VI of the FCAA;
 - B. 500 pounds for PM₁₀ in a PM₁₀ nonattainment area;
 - C. 500 pounds for PM_{2.5} in a PM_{2.5} nonattainment area;
 - D. 120 pounds for lead;
 - E. 600 pounds for fluorides;
 - F. the lesser of the amount established in 40 CFR 68.130, or 1,000 pounds;
 - G. an aggregate of 5,000 pounds for all hazardous air pollutants;
 - H. 2,756 tons CO₂e (short tons) of greenhouse gases.
- "Agricultural operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the raising and sale of livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose. It does not include the construction and use of dwellings customarily provided in conjunction with the agricultural operation.
- "Air contaminant" or "Air pollutant" means material which, when emitted, causes or tends to cause the degradation of air quality. Such material includes but is not limited to particulate matter, dust, fume, aerosol, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid, any regulated pollutant or any combination thereof. Such term includes any precursors to the formation of any air pollutant; to the extent the EPA has identified such precursor or precursors for the particular purpose for which the term air pollutant is used.
- "Air Contaminant Discharge Permit" or "ACDP" means a written authorization issued, renewed, amended, or revised by LRAPA, 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 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 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 under section 504(e) of the FCAA.
- "Applicable State Implementation Plan" and "Plan" refer to the programs and rules of the Department or LRAPA, as approved by the EPA, or any EPA-promulgated regulations in 40 CFR part 52, subpart MM.
 - "ASTM" means the American Society for Testing Materials.
 - "Attainment area" or "unclassified area" means an area that has not otherwise been designated by EPA as nonattainment with ambient air quality standards for a particular regulated pollutant. Attainment areas or unclassified areas may also be referred to as sustainment or maintenance areas as designated in LRAPA title 29. Any particular location may be part of an attainment area or unclassified area for one regulated pollutant while also being in a different type of designated area for another regulated pollutant.
 - "Attainment pollutant" means a pollutant for which an area is designated an attainment or unclassified area.
 - "Baseline emission rate" means the actual emission rate during a baseline period as determined under LRAPA title 42.

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

Categorically insignificant activities must comply with all applicable requirements.

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

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

maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;

HH. Electric motors;

II. Storage tanks, reservoirs, transfer and lubricating equipment used exclusively for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;

JJ. On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;

KK. Natural gas, propane, and liquefied petroleum gas (LPG) storage tanks and transfer equipment;

LL. Pressurized tanks containing gaseous compounds;

MM. Vacuum sheet stacker vents;

NN. Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;

OO. Log ponds;

PP. Storm water settling basins;

QQ. Fire suppression and training;

RR. Paved roads and paved parking lots within an urban growth boundary;

SS. Hazardous air pollutant emissions in fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;

TT. Health, safety, and emergency response activities;

UU. Emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency, provided that the aggregate horsepower rating of all stationary emergency generator and pump engines is not more than 3,000 horsepower. If the aggregate horsepower rating of all stationary emergency generator and pump engines is more than 3,000 horsepower, then no emergency generators and pumps at the source may be considered categorically insignificant;

VV. Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;

WW. Non-contact steam condensate flash tanks;

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

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

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

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

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

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

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

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

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

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

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

- (1) 100 tons per year or more of any individual regulated pollutant, excluding greenhouse gases and hazardous air pollutants listed in LRAPA title 44 if in a source category listed in subsection C, or
 - (2) 250 tons per year or more of any individual regulated pollutant, excluding greenhouse gases and hazardous air pollutants listed in LRAPA title 44, if not in a source category listed in subsection C.
- B. Calculations for determining a source's potential to emit for purposes of subsections A. and D. must include the following:
- (1) Fugitive emissions and insignificant activity emissions; and
 - (2) Increases or decreases due to a new or modified source.
- C. Source categories:
- (1) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;
 - (2) Coal cleaning plants with thermal dryers;
 - (3) Kraft pulp mills;
 - (4) Portland cement plants;
 - (5) Primary Zinc Smelters;
 - (6) Iron and Steel Mill Plants;
 - (7) Primary aluminum ore reduction plants;
 - (8) Primary copper smelters;
 - (9) Municipal Incinerators capable of charging more than 50 tons of refuse per day;
 - (10) Hydrofluoric acid plants;
 - (11) Sulfuric acid plants;
 - (12) Nitric acid plants;
 - (13) Petroleum Refineries;
 - (14) Lime plants;
 - (15) Phosphate rock processing plants;
 - (16) Coke oven batteries;

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

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

- (1) For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tons per year of nitrogen oxides do not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the FCAA, that requirements under section 182(f) of the FCAA do not apply;
- (2) For ozone transport regions established under section 184 of the FCAA, sources with the potential to emit 50 tons per year or more of VOCs;
- (3) For carbon monoxide nonattainment areas that are classified as "serious" and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tons per year or more of carbon monoxide.
- (4) For PM₁₀ nonattainment areas classified as "serious," sources with the potential to emit 70 tons per year or more of PM₁₀.

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

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

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

- "Greenhouse gases", "GHGs", or "GHG" means the aggregate group of the following six gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride. Each gas is also individually a greenhouse gas. The definition of greenhouse gases in this section does not include, for purposes of LRAPA title 37, OAR 340 division 218, and LRAPA title 38, carbon dioxide emissions from the combustion or decomposition of biomass except to the extent required by federal law.
- "Growth allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.
- "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.
- "Hazardous Air Pollutant" or "HAP" means an air pollutant listed by the EPA 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 under 40 CFR 51.110. Maintenance areas are designated by the LRAPA Board according to title 29.
- "Maintenance pollutant" means a regulated pollutant for which a maintenance area was formerly designated a nonattainment area.
- "Major Modification" means any physical change or change in the method of operation of a source that results in satisfying the requirements of 38-0025.
- "Major New Source Review" or "Major NSR" means the new source review process and requirements under 38-0010 through 38-0070 and 38-0500 through 38-0540 based on the location and regulated pollutants emitted.
- "Major Source":
 - A. Except as provided in subsection B., means a source that emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate. The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.
 - B. As used in LRAPA Title 34, Stationary Source Notification Requirements, OAR 340 division 218, rules applicable to sources required to have LRAPA Title V Operating Permits, OAR 340 division 220, Title V Operating Permit Fees, section 37-0066 Standard ACDPs, and LRAPA Title 33, Emission Standards for Specific Industries, means any stationary source or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person or persons under common control belonging to a single major industrial grouping or supporting the major industrial group and that is described in paragraphs (1), (2), or (3). For the purposes of this subsection, a stationary source or group of stationary sources is considered part of a single industrial grouping if all of the regulated pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.
 - (1) A major source of hazardous air pollutants, which means:

- (i) For hazardous air pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any single hazardous air pollutant that has been listed under 44-020; 25 tons per year or more of any combination of such hazardous air pollutants, unless the Administrator establishes a lesser quantity. Emissions from any oil or gas exploration or production well, along with its associated equipment, and emissions from any pipeline compressor or pump station will not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or
 - (ii) For radionuclides, "major source" will have the meaning specified by the Administrator by rule.
- (2) A major stationary source of regulated pollutants, as defined in section 302 of the FCAA, that directly emits or has the potential to emit 100 tons per year or more of any regulated air pollutant, except greenhouse gases, including any major source of fugitive emissions of any such regulated pollutant. The fugitive emissions of a stationary source are not considered in determining whether it is a major stationary source for the purposes of section 302(j) of the FCAA, unless the source belongs to one of the following categories of stationary sources:
 - (i) Coal cleaning plants (with thermal dryers);
 - (ii) Kraft pulp mills;
 - (iii) Portland cement plants;
 - (iv) Primary zinc smelters;
 - (v) Iron and steel mills;
 - (vi) Primary aluminum ore reduction plants;
 - (vii) Primary copper smelters;
 - (viii) Municipal incinerators capable of charging more than 50 tons of refuse per day;
 - (ix) Hydrofluoric, sulfuric, or nitric acid plants;
 - (x) Petroleum refineries;
 - (xi) Lime plants;
 - (xii) Phosphate rock processing plants;

- (xiii) Coke oven batteries;
 - (xiv) Sulfur recovery plants;
 - (xv) Carbon black plants (furnace process);
 - (xvi) Primary lead smelters;
 - (xvii) Fuel conversion plants;
 - (xviii) Sintering plants;
 - (xix) Secondary metal production plants;
 - (xx) Chemical process plants, excluding ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
 - (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
 - (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - (xxvii) All other stationary source categories, that as of August 7, 1980, is being regulated by a standard promulgated under section 111 or 112 of the FCAA.
- (3) From July 1, 2011 through November 6, 2014, a major stationary source of regulated pollutants, as defined by Section 302 of the FCAA, that directly emits or has the potential to emit 100 tons per year or more of GHGs and directly emits or has the potential to emit 100,000 tons per year or more CO₂e, including fugitive emissions.
- "Material balance" means a procedure for calculating emissions based on the difference between the amount of material added to a process and the amount consumed and recovered from a process.
 - "Modification", except as used in the terms "major modification", "permit modification" and "Title I modification", means any physical change to, or change in the method of operation of, a source or part of a source that results in an increase in the source's or part of a source's

potential to emit any regulated air pollutant on an hourly basis. Modifications do not include the following:

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

found in geologic formations beneath the earth's surface, of which the principal component is methane.

- "Netting basis" means an emission rate determined as specified in 42-0046.
- "Nitrogen oxides" or "NO_x" means all oxides of nitrogen except nitrous oxide.
- "Nonattainment area" means a geographical area within the jurisdiction of the Agency, as designated by the Board, the EQC, or the EPA which exceeds any federal, state or local primary or secondary ambient air quality standard. Nonattainment areas are designated by the Board according to LRAPA title 29 or by the EQC according to division 204.
- "Nonattainment pollutant" means a regulated pollutant for which an area is designated a nonattainment area. Nonattainment areas are designated by the Board according to LRAPA title 29 or by the EQC according to division 204.
- "Normal source operation" means operations that do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.
- "Odor" means the property of an air contaminant that affects the sense of smell.
- "Offset" means an equivalent or greater emission reduction that is required before allowing an emission increase from a source that is subject to Major NSR or State NSR.
- "Opacity" means the degree to which emissions, excluding uncombined water, reduce transmission of light and obscure the view of an object in the background as measured by EPA Method 203B or other method, as specified in each applicable rule.
- "Oregon Title V Operating Permit", "Title V Permit", or "LRAPA Title V Operating Permit" means written authorization issued, renewed, amended, or revised 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 under OAR 340-220-0090.
- "Permittee" means the owner or operator of facility source, authorized to emit regulated pollutants under an Air Contaminant Discharge Permit or the Oregon or LRAPA Title V Operating Permit.
- "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State of Oregon and any agencies thereof, and the federal government and any agencies thereof.
- "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual regulated pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one permitted emission for purposes of Oregon Title V Operating Permit Fees in OAR 340 division 220.
- "Plywood" means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.
- "PM₁₀":
 - A. When used in the context of emissions, means emissions of finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified in rule, in each individual permit.
 - B. When used in the context of ambient concentration, means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured under 40 CFR part 50 Appendix J or an equivalent method designated under 40 CFR part 53.

- "PM_{2.5}":
 - A. When used in the context of direct PM_{2.5} emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified by rule, in each individual permit.
 - B. When used in the context of PM_{2.5} precursor emissions, means sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified by rule, in each individual permit.
 - C. When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured under 40 CFR part 50, Appendix L, or an equivalent method designated under 40 CFR part 53.
- "PM_{2.5} fraction" means the emissions weighted average of the fraction of PM_{2.5} in relation to PM₁₀ for each emissions unit that is included in the netting basis and PSEL.
- "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated pollutant.
- "Portable" means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
- "Potential to emit" or "PTE" means the lesser of:
 - A. The regulated pollutant emissions capacity of a stationary source; or
 - B. The maximum allowable regulated pollutant emissions taking into consideration any physical or operational limitation, including the use of control devices and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation is enforceable by the Administrator.
 - C. This definition does not alter or affect the use of this term for any other purposes under the FCAA or the term "capacity factor" as used in Title IV of the FCAA and the regulations promulgated thereunder. Secondary emissions are not considered in determining the potential to emit.
- "ppm" means parts per million by volume unless otherwise specified in the applicable rule or an individual permit. It is a dimensionless unit of measurement for gases that expresses the ratio of the volume of one component gas to the volume of the entire sample mixture of gases.

- "Predictive emission monitoring system" or "PEMS" means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.
- "Press/cooling vent" means any opening through which particulate and gaseous emissions from plywood, particleboard, or hardboard manufacturing are exhausted, either by natural draft or powered fan, from the building housing the process. Such openings are generally located immediately above the board press, board unloader, or board cooling area.
- "Process upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.
- "Proposed permit" means the version of an LRAPA Title V Operating Permit that LRAPA proposes to issue and forwards to the Administrator for review in compliance with OAR 340-218-0230.
- "Reattainment area" means an area that is designated as nonattainment and has three consecutive years of monitoring data that shows the area is meeting the ambient air quality standard for the regulated pollutant for which the area was designated a nonattainment area, but a formal redesignation by EPA has not yet been approved. Reattainment areas are designated by the EQC according to division 204 and LRAPA according to title 29.
- "Reattainment pollutant" means a regulated pollutant for which an area is designated a reattainment area.
- "Reference method" means any method of sampling and analyzing for a regulated pollutant as specified in 40 CFR part 52, 60, 61 or 63.
- "Regional Agency" means the Lane Regional Air Protection Agency
- "Regulated air pollutant" or "Regulated Pollutant":
 - A. Except as provided in subsections B., 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;

- (6) Greenhouse gases, and
 - (7) Toxic air contaminants.
- B. As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, regulated pollutant means particulate matter, volatile organic compounds, oxides of nitrogen and sulfur dioxide:
 - C. As used in LRAPA Title 42, Plant Site Emission Limits, and Title 38, New Source Review, regulated pollutant does not include any pollutant listed in LRAPA titles 44 and 46.
 - D. As used in LRAPA Title 20, Indirect Sources through Title 34, Stationary Source Notification Requirements; and Title 37 Air Contaminant Discharge Permits through Title 51, Air Pollution Emergencies; regulated pollutant means only the air contaminants listed under subsections A.(1) through A.(6).
- "Removal efficiency" means the performance of an air pollution control device in terms of the ratio of the amount of the regulated pollutant removed from the airstream to the total amount of regulated pollutant that enters the air pollution control device.
 - "Renewal" means the process by which a permit is reissued at the end of its term.
 - "Residual fuel oil" means any oil meeting the specifications of ASTM Grade 4, Grade 5 or Grade 6 fuel oils.
 - "Responsible official" means one of the following:
 - A. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - (1) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - (2) The delegation of authority to such representative is approved in advance by DEQ or LRAPA.
 - B. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
 - C. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of LRAPA title 12, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of

EPA (e.g., a Regional Administrator of the EPA); or

D. For affected sources:

- (1) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the FCAA or the regulations promulgated there under are concerned; and
 - (2) The designated representative for any other purposes under the Oregon Title V Operating Permit program.
- "Reviewing agency", where found in the federal rule, means LRAPA, the DEQ, or the EPA, as applicable.
 - "Secondary emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:
 - A. Emissions from ships and trains coming to or from a facility;
 - B. Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.
 - "Section 111" means section of the FCAA, 42 U.S.C. § 7411, which includes Standards of Performance for New Stationary Sources (NSPS).
 - "Section 111(d)" means subsection 111(d) of the FCAA, 42 U.S.C. § 7411(d), which requires states to submit to the EPA plans that establish standards of performance for existing sources and provides for implementing and enforcing such standards.
 - "Section 112" means section 112 of the FCAA, 42 U.S.C. § 7412, which contains regulations for Hazardous Air Pollutants
 - "Section 112(b)" means that subsection of the FCAA, 42 U.S.C. § 7412(b), which includes the list of hazardous air pollutants to be regulated.
 - "Section 112(d)" means subsection of the FCAA, 42 U.S.C. § 7412(d), which directs the EPA to establish emissions standards for sources of Hazardous Air Pollutants. This section also defines the criteria to be used by EPA when establishing the emission standards.
 - "Section 112(e) " means subsection of the FCAA, 42 U.S.C. § 7412(e), which directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit Hazardous Air Pollutants.
 - "Section 112(r)(7)" means subsection 112(r)(7) of the FCAA, 42 U.S.C. § 7412(r)(7), which

requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.

- "Section 114(a)(3)" means subsection 114(a)(3) of the FCAA, 42 U.S.C. § 7414(a)(3), which requires enhanced monitoring and submission of compliance certifications for major sources.
- "Section 129" means section of the FCAA, 42 U.S.C. § 7429, which requires EPA to promulgate regulations for solid waste combustion.
- "Section 129(e)" means subsection 129(e) of the FCAA, 42 U.S.C. § 7429(e), which requires solid waste incineration units to obtain LRAPA Title V Operating Permits.
- "Section 182(f)" means subsection 182(f) of the FCAA, 42 U.S.C. § 7511a(f), which requires states to include plan provisions in the SIP for NO_x in ozone nonattainment areas.
- "Section 182(f)(1)" means subsection 182(f)(1) of the FCAA, 42 U.S.C. § 7511a(f)(1), which requires states to apply those plan provisions developed for major VOC sources and major NO_x sources in ozone nonattainment areas.
- "Section 183(e)" means subsection 183(e) of the FCAA, 42 U.S.C. § 7511b(e), which requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.
- "Section 183(f)" means subsection 183(f) of the FCAA, 42 U.S.C. § 7511b(f), which requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.
- "Section 184" means section 184 of the FCAA, 42 U.S.C. § 7511c, which contains regulations for the control of interstate ozone air pollution.
- "Section 302" means section 302 of the FCAA, 42 U.S.C. § 7602, which contains definitions for general and administrative purposes in the FCAA.
- "Section 302(j)" means subsection 302(j) of the FCAA, 42 U.S.C. § 7602(j), which contains definitions of "major stationary source" and "major emitting facility."
- "Section 328" means section 328 of the FCAA, 42 U.S.C. § 7627, which contains regulations for air pollution from outer continental shelf activities.
- "Section 408(a)" means subsection 408(a) of the FCAA, 42 U.S.C. § 7651g(a), which contains regulations for the Title IV permit program.
- "Section 502(b)(10) change" means a change which contravenes an expressed Title V permit term but is not a change that:

A. Would violate applicable requirements;

- B. Would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or
 - C. Is a FCAA Title I modification.
- "Section 504(b)" means subsection 504(b) of the FCAA, 42 U.S.C. § 7661c(b), which states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.
 - "Section 504(e)" means subsection 504(e) of the FCAA, 42 U.S.C. § 761c(e), which contains regulations for permit requirements for temporary sources.
 - "Significant emission rate" or "SER," except as provided in subsections A and B, means an emission rate equal to or greater than the rates specified for the regulated pollutants in Table 2 below:

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

TABLE 2 LRAPA Title 12 SIGNIFICANT EMISSION RATES FOR POLLUTANTS REGULATED UNDER THE CLEAN AIR ACT		
Row	Pollutant	Emission Rate
	through octa- chlorinated dibenzo-p-dioxins and dibenzofurans)	ton/year
(t)	Municipal waste combustor metals (measured as particulate matter)	15 tons/year
(u)	Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40 tons/year
(v)	Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tons/year
(w)	Ozone depleting substances in aggregate	100 tons/year

- A. For the regulated pollutants not listed in Table 2 above, the SER is zero unless LRAPA or DEQ determines the rate constitutes a SER.
- B. Any new source or modification with an emissions increase less than the rates specified above that is located within 10 kilometers of a Class I area, and would have an impact on such an area equal to or greater than 1 ug/m³ (24 hour average) is emitting at a SER. This subsection does not apply to greenhouse gas emissions.
- "Significant impact" means an additional ambient air quality concentration equal to or greater than the significant impact level. For sources of VOC or NO_x, source has a significant impact if it is located within the ozone impact distance defined in LRAPA title 40.
 - "Significant impact level" or "SIL" means the ambient air quality concentrations listed in Table 1 below. The threshold concentrations listed below are used for comparison against the ambient air quality standards and PSD increments established under OAR 340 division 202 or LRAPA title 50, but do not apply for protecting air quality related values, including visibility.

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

- "Significant impairment" occurs when LRAPA determines that visibility impairment interferes with the management, protection, preservation, or the enjoyment of the visual experience of visitors within a Class I area. LRAPA will make this determination on a case-by-case basis, considering the recommendation of the Federal Land Manager, the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I Area, and the frequency and occurrence of natural conditions that reduce visibility.
- "Small scale local energy project" means:
 - A. A system, mechanism or series of mechanisms located primarily in Oregon that directly or indirectly uses or enables the use of, by the owner or operator, renewable resources including, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to produce energy, including heat, electricity and substitute fuels, to meet a local community or regional energy need in this state;
 - B. A system, mechanism or series of mechanisms located primarily in Oregon or providing substantial benefits to Oregon that directly or indirectly conserves energy or enables the conservation of energy by the owner or operator, including energy used in transportation;
 - C. A recycling project;
 - D. An alternative fuel project;
 - E. An improvement that increases the production or efficiency, or extends the operating life, of a system, mechanism, series of mechanisms or project otherwise described in

this section, including but not limited to restarting a dormant project;

- F. A system, mechanism or series of mechanisms installed in a facility or portions of a facility that directly or indirectly reduces the amount of energy needed for the construction and operation of the facility and that meets the sustainable building practices standard established by the State Department of Energy by rule; or
 - G. A project described in subsections A. to F., whether or not the existing project was originally financed under ORS 470, together with any refinancing necessary to remove prior liens or encumbrances against the existing project.
 - H. A project described in subsections A. to G. that conserves energy or produces energy by generation or by processing or collection of a renewable resource.
- "Source" means any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all air contaminant emitting activities that belong to a single major industrial group i.e., that have the same two-digit code, as described in the Standard Industrial Classification Manual, U.S. Office of Management and Budget, 1987, or that support the major industrial group.
 - "Source category":
 - A. Except as provided in subsection B., means all the regulated pollutant emitting activities that belong to the same industrial grouping, i.e., that have the same two-digit code as described in the Standard Industrial Classification Manual, U.S. Office of Management and Budget, 1987.
 - B. As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, means a group of major sources that LRAPA and DEQ determines are using similar raw materials and have equivalent process controls and pollution control device.
 - "Source test" means the average of at least three test runs conducted under DEQ's Source Sampling Manual.
 - "Standard conditions" means a gas temperature of sixty-eight (68) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.
 - "Startup" and "Shutdown" means the time during which a source or control device is brought into normal operation or normal operation is terminated, respectively.
 - "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040 and approved by EPA.
 - "State New Source Review" or "State NSR" means the new source review process and requirements under 38-0010 through 38-0038, 38-0245 through 38-0270 and 38-0500 through

38-0540 based on the location and regulated pollutants emitted.

- "Stationary Source" means any building, structure, facility, or installation at a source that emits or may emit any regulated pollutant. Stationary source includes portable sources that are required to have permits under LRAPA title 37.
- "State or State or Local Control Agency", where found in 40 CFR 51.118, means LRAPA or DEQ.
- "Substantial underpayment" means the lesser of 10 percent of the total interim emission fee for the major source or five hundred dollars.
- "Sustainment area" means a geographical area of the state for which LRAPA has ambient air quality monitoring data that shows an attainment or unclassified area could become a nonattainment area but a formal redesignation by EPA has not yet been approved. The presumptive geographic boundary of a sustainment area is the applicable urban growth boundary in effect on the date this rule was last approved by the Board, unless superseded by rule. Sustainment areas are designated by the Board according to LRAPA title 29.
- "Sustainment pollutant" means a regulated pollutant for which an area is designated a sustainment area.
- "Synthetic minor source" means a source that would be classified as a major source under LRAPA title 12, but for limits on its potential to emit regulated pollutants contained in an ACDP or Title V permit issued by LRAPA.
- "Title I modification" means one of the following modifications under Title I of the FCAA:
 - A. A major modification subject to Section 38-0050, Requirements for Sources in Nonattainment Areas or Section 38-0055, Requirements for Sources in Reattainment Areas;
 - B. A major modification subject to Section 38-0060, Requirements for Sources in Maintenance Areas;
 - C. A major modification subject to Section 38-0070, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas or Section 38-0045 Requirements for Sources in Sustainment Areas;
 - D. A modification that is subject to a New Source Performance Standard under Section 111 of the FCAA; or
 - E. A modification under Section 112 of the FCAA.
- "Total reduced sulfur (TRS)" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present, expressed as hydrogen sulfide (H₂S).

- "Toxic air contaminant" means an air pollutant that has been determined by the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health and is listed in OAR 340-245-8020 Table 2.
- "Type A State NSR" means State NSR as specified in 38-0010(2)(a).
- "Type B State NSR" means State NSR that is not Type A State NSR.
- "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit under 32-008.
- "Unassigned emissions" means the amount of emissions that are in excess of the PSEL but less than the netting basis.
- "Unavoidable" or "could not be avoided" means events which are not caused entirely or in part by design, operation, maintenance, or any other preventable condition in either process or control device.
- "Unclassified area" or "attainment area" means an area that has not otherwise been designated by EPA as nonattainment with ambient air quality standards for a particular regulated pollutant. Attainment areas or unclassified areas may also be referred to as sustainment or maintenance areas as designated in LRAPA title 29. Any particular location may be part of an attainment area or unclassified area for one regulated pollutant while also being in a different type of designated area for another regulated pollutant.
- "Uncombined Water" means water which is not chemically bound to a substance.
- "Upset" or "Breakdown" means any failure or malfunction of any pollution control device or operating equipment that may cause excess emissions.
- "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.
- "Veneer dryer" means equipment in which veneer is dried.
- "Visibility impairment" means any humanly perceptible change in visual range, contrast or coloration from that which existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.
- "Volatile organic compound" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

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

- (1) methane;
- (2) ethane;
- (3) methylene chloride (dichloromethane);
- (4) dimethyl carbonate; propylene carbonate;
- (5) 1,1,1-trichloroethane (methyl chloroform);
- (6) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
- (7) trichlorofluoromethane (CFC-11);
- (8) dichlorodifluoromethane (CFC-12);
- (9) chlorodifluoromethane (HCFC-22);
- (10) trifluoromethane (HFC-23);
- (11) 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);
- (12) chloropentafluoroethane (CFC-115);
- (13) 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123);
- (14) 1,1,1,2-tetrafluoroethane (HFC-134a);
- (15) 1,1-dichloro-1-fluoroethane (HCFC-141b);
- (16) 1-chloro-1,1-difluoroethane (HCFC-142b);
- (17) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
- (18) HCFC 225ca and cb;
- (19) HFC 43-10mee;
- (20) pentafluoroethane [2] (HFC-125);
- (21) 1,1,2,2-tetrafluoroethane (HFC-134);
- (22) 1,1,1-trifluoroethane (HFC-143a);
- (23) 1,1-difluoroethane (HFC-152a);
- (24) parachlorobenzotrifluoride (PCBTF);
- (25) cyclic, branched, or linear completely methylated siloxanes;
- (26) acetone;
- (27) perchloroethylene (tetrachloroethylene);
- (28) 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
- (29) 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
- (30) 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
- (31) difluoromethane (HFC-32);
- (32) ethylfluoride (HFC-161);
- (33) 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
- (34) 1,1,2,2,3-pentafluoropropane (HFC-245ca);
- (35) 1,1,2,3,3-pentafluoropropane (HFC-245ea);
- (36) 1,1,1,2,3-pentafluoropropane (HFC-245eb);
- (37) 1,1,1,3,3-pentafluoropropane (HFC-245fa);
- (38) 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
- (39) 1,1,1,3,3-pentafluorobutane (HFC-365mfc);
- (40) chlorofluoromethane (HCFC-31);
- (41) 1-chloro-1-fluoroethane (HCFC-151a);
- (42) 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
- (43) 1,1,1,2,2,3,3,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃);
- (44) 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃);
- (45) 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅);

- (46) 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅);
- (47) methyl acetate;
- (48) 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C₃F₇OCH₃, HFE-7000);
- (49) 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500);
- (50) 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea);
- (51) methyl formate (HCOOCH₃);
- (52) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300);
- (53) propylene carbonate;
- (54) dimethyl carbonate;
- (55) *trans* -1,3,3,3-tetrafluoropropene (also known as HFO-1234ze);
- (56) HCF₂ OCF₂ H (HFE-134);
- (57) HCF₂ OCF₂ OCF₂ H (HFE-236cal2);
- (58) HCF₂ OCF₂ CF₂ OCF₂ H (HFE-338pcc13);
- (59) HCF₂ OCF₂ OCF₂ CF₂ OCF₂ H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));
- (60) *trans* 1-chloro-3,3,3-trifluoroprop-1-ene (also known as SolsticeTM 1233zd(E));
- (61) 2,3,3,3-tetrafluoropropene (also known as HFO-1234yf);
- (62) 2-amino-2-methyl-1-propanol;
- (63) T-Butyl Acetate (TBAC);
- (64) CHF₂CF₂OCH₂CF₃ (HFE-347pcf2); and
- (65) perfluorocarbon compounds which fall into these classes:
 - (i) Cyclic, branched, or linear, completely fluorinated alkanes;
 - (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
 - (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
 - (iv) Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

B. For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method under DEQ's Source Sampling Manual. Where such a method also measures compounds with negligible photochemical reactivity, the latter may be excluded as VOC if the amount of such compounds is accurately quantified, and LRAPA approves the exclusion.

C. LRAPA may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of LRAPA, the amount of negligibly reactive compounds in the source's emissions.

- "Wood-fired veneer dryer" means a veneer dryer that is directly heated by the products of combustion of wood fuel in addition to or exclusive of steam or natural gas or propane combustion.

- "Wood fuel-fired device" means a device or appliance designed for wood fuel combustion, including cordwood stoves, woodstoves and fireplace stove inserts, fireplaces, wood fuel-fired cook stoves, pellet stoves and combination fuel furnaces and boilers that burn wood fuels.
- "Year", unless otherwise defined, means any consecutive 12 month period of time.

Section 12-010 Abbreviations and Acronyms

- "AAQS" means ambient air quality standard.
- "ACDP" means Air Contaminant Discharge Permit.
- "ACT" means Federal Clean Air Act.
- "AE" means Actual Emissions.
- "AICPA" means Association of Independent Certified Public Accountants.
- "AQCR" means Air Quality Control Region.
- "AQRV" means Air Quality Related Value
- "AQMA" means Air Quality Maintenance Area.
- "ASME" means American Society of Mechanical Engineers.
- "ASTM" means American Society for Testing & Materials.
- "ATETP" means Automotive Technician Emission Training Program.
- "AWD" means all wheel drive.
- "BACT" means Best Available Control Technology.
- "BART" means Best Available Retrofit Technology.
- "BLS" means black liquor solids.
- "CAA" means Clean Air Act
- "CAR" means control area responsible party.
- "CBD" means central business district.
- "CCTMP" means Central City Transportation Management Plan.
- "CEM" means continuous emissions monitoring.
- "CEMS" means continuous emission monitoring system.
- "CERCLA" means Comprehensive Environmental Response Compensation and Liability Act.
- "CFRMS" means continuous flow rate monitoring system.
- "CFR" means Code of Federal Regulations.
- "CMS" means continuous monitoring system.
- "CO" means carbon monoxide.
- "CO₂e" means carbon dioxide equivalent
- "COMS" means continuous opacity monitoring system.
- "CPMS" means continuous parameter monitoring system.
- "DEQ" means Oregon Department of Environmental Quality.
- "DOD" means Department of Defense.
- "EA" means environmental assessment.
- "ECO" means employee commute options.
- "EEAF" means emissions estimate adjustment factor.
- "EF" means emission factor.
- "EGR" means exhaust gas re-circulation.

- "EIS" means Environmental Impact Statement
- "EPA" means Environmental Protection Agency.
- "EQC" means Environmental Quality Commission.
- "ESP" means electrostatic precipitator.
- "FCAA" means Federal Clean Air Act.
- "FHWA" means Federal Highway Administration.
- "FONSI" means finding of no significant impact.
- "FTA" means Federal Transit Administration.
- "GFA" means gross floor area.
- "GHG" means greenhouse gases
- "GLA" means gross leasable area.
- "GPM" means grams per mile.
- "gr/dscf" means grains per dry standard cubic foot.
- "GTBA" means grade tertiary butyl alcohol.
- "GVWR" means gross vehicle weight rating.
- "HAP" means hazardous air pollutant.
- "HEPA" means high efficiency particulate air.
- "HMIWI" means hospital medical infectious waste incinerator.
- "I/M" means inspection and maintenance program.
- "IG" means inspection grade.
- "IRS" means Internal Revenue Service.
- "ISECP" means indirect source emission control program.
- "ISTEA" means Intermodal Surface Transportation Efficiency Act.
- "LAER" means Lowest Achievable Emission Rate.
- "LDT2" means light duty truck 2.
- "LIDAR" means laser radar; light detection and ranging.
- "LPG" means liquefied petroleum gas.
- "LRAPA" means Lane Regional Air Protection Agency.
- "LUCS" means Land Use Compatibility Statement.
- "MACT" means Maximum Achievable Control Technology.
- "MPO" means Metropolitan Planning Organization.
- "MTBE" means methyl tertiary butyl ether.
- "MWC" means municipal waste combustor.
- "NAAQS" means National Ambient Air Quality Standards.
- "NAICS" means North American Industrial Classification System.
- "NEPA" means National Environmental Policy Act.
- "NESHAP" means National Emissions Standard for Hazardous Air Pollutants.
- "NIOSH" means National Institute of Occupational Safety & Health.
- "NO_x" means nitrogen oxides.
- "NSPS" means New Source Performance Standards.
- "NSR" means New Source Review.
- "NSSC" means neutral sulfite semi-chemical.
- "O₃" means ozone.
- "OAR" means Oregon Administrative Rules.
- "ODOT" means Oregon Department of Transportation.
- "ORS" means Oregon Revised Statutes.

- "OSAC" means orifice spark advance control.
- "OSHA" means Occupational Safety & Health Administration.
- "PCDE" means pollution control device collection efficiency.
- "PEMS" means predictive emission monitoring system.
- "PM" means particulate matter.
- "PM₁₀" means particulate matter less than 10 microns.
- "PM_{2.5}" means particulate matter less than 2.5 microns.
- "POTW" means Publicly Owned Treatment Works.
- "POV" means privately owned vehicle.
- "ppm" means parts per million.
- "PSD" means Prevention of Significant Deterioration.
- "PSEL" means Plant Site Emission Limit.
- "QIP" means quality improvement plan.
- "RACT" means Reasonably Available Control Technology.
- "ROI" means range of influence.
- "RVCOG" means Rogue Valley Council of Governments.
- "RWOC" means running weighted oxygen content.
- "scf" means standard cubic feet.
- "SCS" means speed control switch.
- "SD" means standard deviation.
- "SERP" means source emission reduction plan.
- "SIC" means Standard Industrial Classification from the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987).
- "SIP" means State Implementation Plan.
- "SLAMS" means State or Local Air Monitoring Stations.
- "SO₂" means sulfur dioxide.
- "SOCMI" means synthetic organic chemical manufacturing industry.
- "SOS" means Secretary of State.
- "SPMs" means Special Purpose Monitors.
- "TAC" means thermostatic air cleaner.
- "TACT" means Typically Achievable Control Technology.
- "TCM" means transportation control measures.
- "TCS" means throttle control solenoid.
- "TIP" means Transportation Improvement Program.
- "tpy" means tons per year.
- "TRS" means total reduced sulfur.
- "TSP" means total suspended particulate matter.
- "UGA" means urban growth area.
- "UGB" means urban growth boundary.
- "USC" means United States Code.
- "US DOT" means United States Department of Transportation.
- "UST" means underground storage tanks.
- "UTM" means universal transverse mercator.
- "VIN" means vehicle identification number.
- "VMT" means vehicle miles traveled.
- "VOC" means volatile organic compounds.

Section 12-020 Exceptions

- (1) Except as provided in subsection (2), LRAPA Rules and Regulations do not apply to:
 - (a) Agricultural operations, including but not limited to:
 - (A) Growing or harvesting crops;
 - (B) Raising fowl or animals;
 - (C) Clearing or grading agricultural land;
 - (D) Propagating and raising nursery stock;
 - (E) Propane flaming of mint stubble; and
 - (F) Stack or pile burning of residue from Christmas trees, as defined in ORS 571.505, during the period beginning October 1 and ending May 31 of the following year.
 - (b) Equipment used in agricultural operations, except boilers used in connection with propagating and raising nursery stock.
 - (c) Barbeque equipment used in connection with any residence.
 - (d) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families, except woodstoves which shall be subject to regulation under OAR 340 division 262, and as provided in ORS 468A.020(1)(d). Emissions from woodstoves can be used to create emission reduction credits in title 41.
 - (e) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or instruction of employees in the methods of fire fighting, which in the opinion of the agency is necessary.
 - (f) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.
- (2) Section (1) does not apply to the extent:
 - (a) Otherwise provided in ORS 468A.555 to 468A.620, 468A.790, 468A.992, 476.380 and 478.960;
 - (b) Necessary to implement the 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, 2018 edition.
- (2) The DEQ Source Sampling Manual refers to the 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 13

GENERAL DUTIES AND POWERS OF BOARD AND DIRECTOR

Section 13-005 Authority of the Agency

- (1) The Lane Regional Air Protection Agency is a regional air quality control agency established under the provisions of, and with authority and powers derived from, Oregon Revised Statutes 468.500 et seq. Except as specifically retained by the Environmental Quality Commission, the Agency has the exclusive duty and responsibility within its territory for air quality control.
- (2) In exercising this authority and power, the Agency:
 - (a) May adopt rules and standards necessary to carry out its functions as authorized by law.
 - (b) May enforce its rules and standards over both incorporated and unincorporated areas within the territory of the Agency, regardless of whether the governing body of a city within the territory of the Agency is participating in the regional authority.
 - (c) Shall enforce the rules and standards of the Environmental Quality Commission as required.
 - (d) Shall establish by rule standards for the entire territory or any area of the territory which set forth the maximum amount of air contaminants permissible. The rule may differentiate between different parts of the territory, different air contaminants and different air pollution sources or classes thereof. Such standards may be changed from time to time by the Agency following public hearings.
 - (e) May require sources to register and report type and quantities of emissions.
 - (f) Shall require sources to obtain permits to discharge air contaminants, shall provide for the issuance, renewal, termination and revocation of permits, and may charge reasonable fees for the administration of the permit program.
 - (g) May issue orders to require prevention or correction of air pollution or emissions of air contaminants which violate air quality standards.

- (h) May institute actions for penalties for violation of any provisions of any rule or any order which it may issue.
- (i) May hold public hearings, conduct investigations, subpoena witnesses to appear, administer oaths and affirmations, take depositions and receive such proof as it may deem necessary or proper, make findings of fact and determinations to discharge its duties, powers and responsibilities to control and abate air pollution.
- (j) May institute or cause to be instituted in a court of competent jurisdiction, proceedings to compel compliance with the rules of the Agency, the laws of the State of Oregon and the standards set forth therein.
- (k) May institute or cause to be instituted a suit for injunction to prevent any further or continued violation of the standards of these rules or an order of the Agency, and to compel compliance, if measures to prevent or correct air pollution or emission of air contaminants are not taken in accordance with an order of the Agency.
- (l) Shall encourage voluntary cooperation by all persons controlling air pollution and shall cooperate with agencies of the United States, the State of Oregon, or other persons with respect to the control of air pollution.
- (m) May conduct or cause to be conducted, studies and research with respect to air pollution sources, control, abatement or prevention.
- (n) May conduct or supervise programs of air pollution control education.
- (o) May apply to and receive funds from local, state, and federal governments and from public and private agencies.
- (p) May expend such funds and enter into agreements with the state or the federal government for the purpose of organizing and operating a regional air pollution agency.
- (q) May do any and all other acts and things not inconsistent with any provisions of these rules which it may deem necessary or proper for the effective enforcement of these rules and the applicable law.

Section 13-010 Duties and Powers of the Board of Directors

- (1) The Board of Directors of the Agency is organized pursuant to ORS 468.520. It shall establish policies for the operation of the Agency in a manner consistent with ORS 468.500 et seq. and these rules. In addition, the Board of Directors shall perform any other duty vested in it by law.

- (2) It is the function of the Board of Directors within its territory, to adopt rules and standards, prescribe ambient air quality standards, and air contaminant emission standards, adopt, amend, and repeal air pollution control rules, hold public hearings, enforce its rules and standards and those of the Environmental Quality Commission, institute actions for penalties for violations, institute actions or suits for injunctions in a court of competent jurisdiction, and budget, receive and expend funds.
- (3) The Board shall appoint a director competent in the field of air pollution control who shall enforce the provisions of these rules and all orders of this Agency.

Section 13-020 Duties and Function of the Director

- (1) The Director is responsible for the general administration of the Agency under the direction of the Board of Directors. The Director:
 - (a) May employ persons, including specialists and consultants, and purchase materials and supplies necessary to carry out the purposes of the Agency as authorized by the Board of Directors.
 - (b) Shall recommend to the Board of Directors the adoption of such rules, policies, and procedures as necessary to comply with the applicable federal and state laws, and to administer these rules.
 - (c) Shall seek compliance with the air quality standards of these rules by cooperation and conciliation among all the parties concerned. If compliance is not obtained through such means, the director may issue orders or institute enforcement proceedings to compel compliance with the provisions of these rules and any applicable law.
 - (d) May make findings of fact and determinations as to non-compliance with the rules for issuance informally to a party in violation.
 - (e) May issue a Notice of Violation to the person responsible for an emission of contaminants into the air in violation of these rules.
 - (f) May impose civil penalties according to the provisions of ORS 468.140, the rules of the Environmental Quality Commission, and these rules.
 - (g) Shall institute or cause to be instituted in the name of the Agency after approval of the Board a suit for injunction to prevent any further or continued violation of the rule or order.
 - (h) May enter, during operation hours, any property, premises, or place for the purpose of investigating either an actual or suspected air contaminant source or to ascertain compliance or noncompliance with these rules or any issued order.

- (i) May adopt administrative rules to manage the Agency.
- (j) Shall undertake a community education program to provide the citizens of the territory of the Agency with better understanding of the nature of air pollution and its control.
- (k) Shall submit an annual report of activities undertaken by the Agency.
- (l) Shall issue permits, and register sources of air contaminants.
- (m) Shall prepare an annual budget for submission to the Budget Committee and Board, and submit required reports to the Environmental Quality Commission and U. S. Environmental Protection Agency.
- (n) Shall perform such other acts required by the Board.

Section 13-025 Conflict of Interest

The LRAPA Board of Directors and Director shall comply with Section 128 (A) of the federal Clean Air Act as amended in 1977, which pertains to majority makeup of the board and disclosures of potential conflict of interest. Section 128 is made a part of these regulations by reference.

Section 13-030 Advisory Committee

- (1) An advisory committee shall be appointed by the Board annually in February, to advise the Agency in matters pertaining to its air pollution control program and particularly as to methods and procedures for the protection of public health and welfare and of property from the adverse effects of air pollution, and on matters relative to legislation.
- (2) The advisory committee shall consist of at least seven but no more than fifteen members appointed for a term of three years with at least one representative from each of the following groups from within the territory of the Agency:
 - (a) Public Health Agencies
 - (b) Agriculture
 - (c) Industry
 - (d) Community Planning
 - (e) Fire Suppression Agencies

- (f) General Public
- (3) The terms of office for the members of the advisory committee shall be staggered to avoid the possibility of having a committee comprised solely of new members at any given time.
 - (a) The Board of Directors shall establish the original schedule of staggered terms in February of 1984 by appointing approximately one-third of the committee members to one-year terms, one-third to two-year terms, and one-third to three-year terms.
 - (b) Terms of service shall be three years thereafter. Any subsequent appointments or re-appointments shall have three-year terms.
 - (c) Appointments to fill mid-term vacancies shall be for the unexpired portion of the term.
- (4) The advisory committee shall select a chairman and vice-chairman and such other officers as it considers necessary and shall meet as frequently as it, the Board, or the Director considers necessary. Members shall serve without compensation.

Section 13-035 Public Records and Confidential Information

- (1) The Agency shall permit the public to inspect and copy any emission data reported by source owners or operators or otherwise obtained by the Agency except for data which the Board has determined to be "confidential information," as provided in Section 13-035(2).
- (2) When any records or other information furnished to or obtained by the Agency is related to processes or production unique to the owner or operator, or are likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production submits satisfactory proof in writing, such records or information shall be only for the confidential use of the Agency. Nothing contained in these regulations shall prohibit the Agency from using such records or information as deemed necessary by the Agency, in its sole discretion, in the enforcement of provisions of these regulations or the laws of the State of Oregon against such owner or operator. Nothing in this section shall be construed to make confidential any information as to the composition or amount of air contaminant emissions from any source or sources.
- (3) The Agency may charge a reasonable fee for inspection and copying of the records.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 14

RULES OF PRACTICE AND PROCEDURE

Section 14-110 Definitions

The words and phrases used in this title have the same meaning given them in ORS 183.310. Additional terms are defined as follows unless context requires otherwise:

- (1) "Adoption" means the carrying of a motion by the Board with regard to the subject matter or issues of an intended Agency action.
- (2) "Agency" means the Lane Regional Air Protection Agency.
- (3) "Board" means the Board of Directors of the Lane Regional Air Protection Agency.
- (4) "Chair" means the chair of the Board of Directors of the Lane Regional Air Protection Agency.
- (5) "Director" means the Director of the Lane Regional Air Protection Agency and authorized deputies or officers.
- (6) "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 the Agency, except a claim of personal liability.
- (7) "Model Rules" or "Uniform Rules" means the Attorney General's Uniform and Model Rules of Procedure, OAR chapter 137, division 001 (excluding 137-001-0008 through 137-001-0009), chapter 137, division 003, and chapter 137, division 004, as amended and in effect on January 1, 2006.
- (8) "Presiding Officer" means the Agency, its Chair, Hearings Officer, the Director or any individual designated by the Agency or the Director to preside in any contested case, public, or other hearing. Any employee of the Agency who actually presided in any such hearing is presumptively designated by the Agency or Director, such presumptive designation to be overcome only by a written statement to the contrary bearing the signature of the Chair or the Director.

Rulemaking

Section 14-115 Rulemaking Notice

- (1) Prior to the adoption, amendment or repeal of any rule, the Agency shall give notice of its intended action on the Agency website and to persons who have requested notice pursuant to ORS 183.335(7).

- (2) The notice required by subsection (1) shall state the subject matter, issues and purpose of the intended action in sufficient detail to inform a person that the person's interests may be affected. The notice shall also give the time and place of hearing and the time, place and manner where a full description of the intended action or copy of the proposed rule and supporting documents may be obtained.
- (3) The Agency shall, at the time the notice is issued, prepare and make available to the public:
 - (a) The citation(s) of statutory or other legal authority relied upon and bearing upon the intended action;
 - (b) A statement of need for the action and how the action is intended to meet the need;
 - (c) A list of principal documents, reports or studies, if any, used by the Agency in considering the need; and
 - (d) A statement of fiscal impact on state and local agencies, public and businesses, including small businesses which may be affected.

Section 14-120 Rulemaking Hearings and Process

Except as specifically provided to the contrary by this section, the rulemaking process shall be governed by the Attorney General's Model Rules, OAR 137-001-0005 through 137-001-0060. As used in those rules, the terms "agency," "governing body" and "decision maker" generally should be interpreted to mean "Board."

Section 14-125 Temporary Rules

The Board may adopt temporary rules, along with supportive findings, pursuant to ORS 183.335(5)(b) and 183.355(2) and the Attorney General's Model Rule OAR 137-001-0080.

- (1) If no notice has been provided before adoption of a temporary rule, the Agency shall give notice of its temporary rulemaking to persons, entities and media specified under ORS 183.335(1) by mailing or personally delivering to each of them a copy of the rule or rules as adopted and a copy of the statements required under ORS 183.335(5). If a temporary rule or rules are over ten pages in length, the Agency may provide a summary and state how and where a copy of the rule or rules may be obtained. Failure to give this notice shall not affect the validity of any rule.
- (2) A temporary rule is effective for less than 180 calendar days if a shorter period is specified in the rule, or for 180 calendar days if the rule does not specify a shorter period.

Section 14-126 Effective Date of Rules or Orders

The rule or order shall become effective upon adoption by the Board, unless a different effective date is required by statute or specified in the rule or order. The rule or order is not filed with the Secretary of State unless agreed by LRAPA and DEQ.

Section 14-130 Petition to Promulgate, Amend or Repeal Rule--Content of Petition, Filing of Petition

The filing of petitions for rulemaking and action thereon by the Commission shall be in accordance with the Attorney General's Uniform Rules of Procedure set forth in OAR 137-001-0070. As used in that rule, the term "agency" general refers to the Board but may also refer to the Agency if context requires.

Section 14-135 Declaratory Rulings

Except as specifically provided to the contrary by these rules, the declaratory ruling process shall be governed by the Attorney General's Model Rules, OAR 137-002-0010 through 137-002-0060. As used in those rules, the terms "agency," "governing body" and "decision maker" generally should be interpreted to mean "Board."

Section 14-140 Contested Cases: Contested Case Proceedings Generally

Except as specifically provided to the contrary by these rules, contested case proceedings including notice requirements shall be governed by the Attorney General's Model Rules of Procedure, OAR 137-003-0501 through 137-003-0700. As used in those rules, the terms "agency," "governing body" and "decision maker" generally should be interpreted to mean "Board".

Section 14-145 Agency Representation by Environmental Law Specialist

- (1) Environmental Law Specialists, and other Agency personnel as approved by the Director, are authorized to appear on behalf of the Agency and Board in contested case hearings involving formal enforcement actions issued under these rules and issuance, revocation, modification, or denial of licenses, permits, certifications, or other authorizations, including general permit coverage or registrations.
- (2) Environmental Law Specialists or other approved personnel may not present legal argument as defined under OAR 137-003-0545 on behalf of the Agency or Board in contested case hearings.

Section 14-147 Authorized Representative of Respondent other than a Natural Person in a Contested Case Hearing

A corporation, partnership, limited liability company, unincorporated association, trust and government body may be represented by either an attorney or an authorized representative in a contested case hearing before the hearing officer or Board to the extent allowed by OAR 137-003-0555.

Section 14-150 Liability for the Acts of a Person's Employees

A person is legally responsible for not only its direct acts but also the acts of its employee when the employee is acting within the scope of the employment relationship, regardless of whether the person expressly authorizes the act in question. The mental state of an employee can be imputed to the

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employer. Nothing in this rule prevents the Agency from issuing a formal enforcement action to an employee for violations occurring during the scope of the employee's employment.

Section 14-155 Consolidation or Bifurcation of Contested Case Hearings

Proceedings for the assessment of multiple civil penalties for multiple violations may be consolidated into a single proceeding or bifurcated into separate proceedings, at the Agency's discretion. Additionally, the Agency, at its discretion, may consolidate or bifurcate contested case hearings involving the same fact or set of facts constituting the violation.

Section 14-160 Final Orders

- (1) A final order shall be issued by the Hearings Officer, who may direct any party to prepare the final order.
- (2) Final orders on contested cases shall be in writing and shall include the following:
 - (a) Rulings on admissibility of offered evidence when the rulings are not set forth in the record.
 - (b) Findings of fact: Those matters that are either agreed as fact or that, when disputed, are determined by the Hearings Officer on substantial evidence to be facts over contentions to the contrary. A finding must be made on each fact necessary to reach the conclusions of law on which the order is based.
 - (c) Conclusion(s) of law: Applications of the controlling law to the facts found and the legal results arising therefrom.
 - (d) Order: The action taken by the Agency as a result of the facts found and the legal conclusions arising therefrom.
 - (e) A citation of the statutes under which the order may be appealed.

Section 14-165 Default Orders

- (1) When the Agency has given a party an opportunity to request a hearing and the party fails to make a request within a specified time, or when the Agency has set a specified time and place for a hearing and the party fails to appear at the specified time and place, the Director may enter a final order by default.
- (2) The Agency may issue an order of default only after a prima facie case on the record has been made. The record may be made by the Director at a meeting convened by the Director or Hearings Officer, at a scheduled hearing on the matter.
- (3) The record shall be complete at the time of the notice at the time the default order is issued.
- (4) The record may consist of oral (transcribed, recorded or reported) or written evidence or a combination of oral and written evidence. When the record is made at the time the notice or

order is issued, the Agency file may be designated as the record. In all cases, the record must contain substantial evidence to support the findings of fact.

- (5) When the Hearings Officer has set a specified time and place for a hearing in a matter in which only one party is before the Hearings Officer and that party subsequently notifies the Agency that the party will not appear at such specified time and place, the Hearings Officer may enter a default order, cancel the hearing and follow the procedure described in subsections (2) and (4).
- (6) Any default order shall be the final order of the Agency.

Section 14-170 Appeal to the Board

- (1) Filing of Appeal. The Hearings Officer's Final Order shall be the final order of the Board unless within thirty (30) days from the date of mailing, or if not mailed then from the date of personal service, any of the parties, a member of the Board, or the Director files with the Board and serves upon each party and the Agency a Notice of Appeal. A proof of service thereof shall also be filed, but failure to file a proof of service shall not be a ground for dismissal of the Notice of Appeal.
 - (a) The timely filing and service of a Notice of Appeal is a jurisdictional requirement for the commencement of an appeal to the Board and cannot be waived; a Notice of Appeal which is filed or served late shall not be considered and shall not affect the validity of the Hearings Officer's Final Order which shall remain in full force and effect.
 - (b) The timely filing and service of a sufficient Notice of Appeal to the Board shall automatically stay the effect of the Hearings Officer's Final Order.
- (2) Content of Notice of Appeal. A Notice of Appeal shall be in writing and need only state the party's or a Board member's intent that the Board review the Hearings Officer's Final Order.
- (3) Procedures on Appeal:
 - (a) Appellant's Exceptions and Brief: Within thirty (30) days from the date of service or filing of his Notice of Appeal, whichever is later, the appellant shall file with the Board and serve upon each other party written exceptions, brief and proof of service. Such exceptions shall specify those findings and conclusions objected to and the reasoning for the exception, and shall include proposed alternative findings of fact, conclusions of law, and order with specific references to those portions to the record upon which the party relies. Matters not raised before the Hearings Officer shall not be considered. In any case where opposing parties timely serve and file Notices of Appeal, the first to file shall be considered to be the appellant and the opposing party the cross appellant.
 - (b) Appellee's Brief: Each party so served with exceptions and brief shall then have thirty (30) days from the date of service or filing, whichever is later, in which to file with the Board and serve upon each other party an answering brief and proof of service.

- (c) Reply Brief: Except as provided in paragraph (d), each party served with an answering brief shall have twenty (20) days from the date of service or filing, whichever is later, in which to file with the Board and serve upon each other party a reply brief and proof of service.
 - (d) Cross Appeals: Should any party entitled to file an answering brief so elect, he may also cross appeal to the Board the Hearings Officer's Final Order by filing with the Board and serving upon each other party in addition to an answering brief a Notice of Cross Appeal, exceptions (described in paragraph (a)), a brief on cross appeal and proof of service, all within the same time allowed for an answering brief. The appellant-cross appellee shall then have thirty (30) days in which to serve and file his reply brief, cross answering brief and proof of service. There shall be no cross reply brief without leave of the Board Chair or Hearings Officer.
 - (e) Briefing on Board-Invoked Review: Where one or more members of the Board commence an appeal to the Board pursuant to subsection (1), and where no party to the case has timely served and filed a Notice of Appeal, the Chair shall promptly notify the parties of the issue that the Board desires the parties to brief and the schedule for filing and serving briefs. The parties shall limit their briefs to those issues. Where one or more members of the Board have commenced an appeal to the Board and a party has also timely commenced such a proceeding, briefing shall follow the schedule set forth in paragraphs (a) through (f).
 - (f) Extensions: The Chair or the Hearings Officer, upon request, may extend any of the time limits contained in this section. Each extension shall be made in writing and be served upon each party. Any request for an extension may be granted or denied in whole or in part.
 - (g) Failure to Prosecute: The Board may dismiss any appeal or cross appeal if the appellant or cross appellant fails to timely file and serve any exceptions or brief required by these rules.
 - (h) Oral Argument: Following the expiration of the time allowed the parties to present exceptions and briefs, the Chair may at his or her discretion schedule the appeal for oral argument before the Board.
- (4) Scope of Review: In an appeal to the Board of a Hearings Officer's Final Order, the review by the Board shall be confined to the record of proceedings before the Hearings officer. The Board may not substitute its judgment for that of the Hearings Officer in making any particular finding of fact, conclusion of law or order. As to any finding of fact made by the Hearings Officer, the Board may make an identical finding without any further consideration of the record.
- (5) Remand
- (a) In the case of disputed allegations of irregularities in procedure before the Hearings Officer not shown in the record which, if proved, would warrant reversal or remand, the Board may refer the allegations to another Hearings Officer appointed by the Board to take evidence and make finding of fact upon them.

- (b) The Board may affirm or remand the proposed order. The Board shall remand the order only if it finds:
 - (A) The proposed order to be unlawful in substance or procedure, but error in procedure shall not be cause for remand unless the Board shall find that substantial rights of the appellant were prejudiced thereby;
 - (B) The proposed order is not supported by substantial evidence in the whole record.
- (6) After the conclusion of oral argument, the Board shall consider the appeal. The Board shall adopt an order allowing or denying the appeal in whole or in part. The order shall contain findings of fact and conclusions of law necessary to support the order. The order of the Board shall be the final order of the Agency.

Section 14-175 Power of the Director

- (1) Except as provided by section 15-040, the Director, on behalf of the Board, may execute any written order which has been consented to in writing by the parties adversely affected thereby.
- (2) The Director, on behalf of the Board, may prepare and execute written orders implementing any action taken by the Board on any matter.
- (3) The Director, on behalf of the Board, may prepare and execute orders upon default where:
 - (a) The adversely affected parties have been properly notified of the time and manner in which to request a hearing and have failed to file a proper, timely request for a hearing; or
 - (b) Having requested a hearing, the adversely affected party has failed to appear at the hearing or at any duly scheduled pre-hearing conference.
- (4) Default orders based upon failure to appear shall issue only upon the making of a prima facie case on the record.

Section 14-185 Request for Stay Pending Judicial Review

- (1) Any person entitled to judicial review of an Agency order who files a timely petition for judicial review may request the Agency to stay the enforcement of the Agency order that is the subject of judicial review.
- (2) The stay request shall contain:
 - (a) The name of the person filing the request, identifying that person as a petitioner and the Agency as the respondent;
 - (b) The full title of the Agency decision as it appears on the order, and the date of the Agency decision;

- (c) A summary of the Agency decision; and
 - (d) The name, address and telephone number of each of the following:
 - (A) The petitioner; and
 - (B) All other parties to the Agency proceeding. When the party was represented by an attorney in the proceeding, then the name, address and telephone number of the attorney shall be provided, and the address and telephone number of the party may be omitted.
 - (e) A statement advising all persons whose names, addresses and telephone numbers are required to appear in the stay request as provided in paragraph (d) that they may participate in the stay proceeding before the Agency, if they file a response in accordance with section 14-190 within ten (10) days from delivery or mailing of the stay request to the Agency.
 - (f) A statement of facts and reasons sufficient to show that the stay request should be granted because:
 - (1) The petitioner will suffer irreparable injury if the order is not stayed;
 - (2) There is a colorable claim of error in the order; and
 - (3) Granting the stay will not result in substantial public harm.
 - (g) A statement identifying any person, including the public, who may suffer injury if the stay is granted. If the purposes of the stay can be achieved with limitations or conditions that minimize or eliminate possible injury to other persons, petitioner shall propose such limitations or conditions. If the possibility of injury to other persons cannot be eliminated or minimized by appropriate limitation or conditions, petitioner shall propose an amount of bond or other undertaking to be imposed on the petitioner should the stay be granted, explaining why that amount is reasonable in light of the identified potential injuries.
 - (h) A description of additional procedures, if any, the petitioner believes should be followed by the Agency in determining the appropriateness of the stay request.
 - (i) An appendix of affidavits containing all evidence (other than evidence contained in the record of the contested case out of which the stay request arose) upon which the petitioner relies in support of the statements required under paragraphs (f) and (g). The record of the contested case out of which the stay request arose is a part of the record of the stay proceeding.
- (3) The request must be delivered or mailed to the Agency and, on the same date, a copy delivered or mailed to all parties identified in the request, as required by paragraph (2)(d).

Section 14-190 Request for Stay--Motion to Intervene

- (1) Any party identified under 14-185(2)(d) desiring to participate as a party in the stay proceeding may file a response to the request for stay.
- (2) The response shall contain:
 - (a) The full title of the Agency decision as it appears on the order;
 - (b) The name, address and telephone number of the person filing the response, except that if the person is represented by an attorney, then the name, address and telephone number of the attorney shall be included, and the person's address and telephone number may be deleted; and
 - (c) A statement accepting, rejecting or proposing alternatives to the petitioner's statement on the bond amount or undertaking or other reasonable conditions that should be imposed on petitioner, should the stay request be granted.
- (3) The response may contain affidavits containing additional evidence upon which the party relies in support of the statement under paragraph (2)(c).
- (4) The response must be delivered or mailed to the Agency and to all parties identified in the stay request within ten (10) days of the date of delivery or mailing to the Agency of the stay request.

Section 14-200 Request for Stay--Agency Determination

- (1) The Agency may allow the petitioner to amend or supplement the stay request to comply with 14-185(2) or 14-190. All amendments and supplements shall be delivered or mailed as provided in 14-185(3), and the deadlines for response and Agency action shall be computed from the date of delivery or mailing to the Agency.
- (2) After the deadline for filing of responses, the Agency shall:
 - (a) Decide upon the basis of the material before it; or
 - (b) Conduct such further proceedings as it deems desirable; or
 - (c) Allow the petitioner, within a time certain, to submit responsive legal arguments and affidavits to rebut any response. Petitioner may not bring new direct evidence through such affidavits. The Agency may rely on evidence in such affidavits only if it rebuts intervenor evidence.
- (3) The Agency's order shall:
 - (a) Grant the stay request upon findings of irreparable injury to the petitioner and a colorable claim of error in the Agency order, and may impose reasonable conditions, including but not limited to a bond or other undertaking, and that the petitioner file all documents necessary to bring the matter to issue before the Court of Appeals within a specified reasonable period of time; or

- (b) Deny the stay request upon a finding that the petitioner failed to show irreparable injury or a colorable claim of error in the Agency order; or
 - (c) Deny the stay request upon a finding that a specified substantial public harm would result from granting the stay, notwithstanding the petitioner's showing of irreparable injury and a colorable claim of error in the Agency order.
- (4) Nothing in 14-140 or in 14-190, 14-200 and this section prevents the Agency from receiving evidence from Agency staff concerning the stay request. Such evidence shall be presented by affidavit within the time limits imposed by 14-205(1). If there are further proceedings pursuant to paragraph (2)(b), the Agency staff may present additional evidence in the same manner that parties are permitted to present additional evidence.

Section 14-205 Request for Stay--Time Frames

1. Unless otherwise agreed to by the Agency, petitioner and respondents, the Agency shall commence any proceeding instituted pursuant to 14-190 within twenty (20) days after receiving the stay request.
2. Unless otherwise agreed to by the Agency, petitioner and respondents, the Agency shall grant or deny the stay request within thirty (30) days after receiving it.

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, 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 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 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 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 under New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the Federal Clean Air Act.
- (ii) Outdoor burning violations as follows:
 - (I) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit;
 - (II) Any violation of paragraph 47-015(1)(e) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(b) \$8,000 Penalty Matrix:

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

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

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

(c) \$3,000 Penalty Matrix:

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

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

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

(d) \$1,000 Penalty Matrix:

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

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

- (i) Any violation of an outdoor burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under

another penalty matrix;

- (ii) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.
- (iii) Any violation of OAR 340-262-0900(1) or OAR 340-262-0900(2) committed by a residential owner-occupant at the residence.

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

- (1) When determining the amount of civil penalty to be assessed for any violation, other than violations of title 16 which are determined in title 16, and of ORS 468.996 which are determined according to the procedure set forth below in section 15-050, the Director or authorized representative shall apply the following procedures:
 - (a) Determine the class and the magnitude of each violation;
 - (b) Choose the appropriate base penalty (BP) established by the matrices of section 15-025 after determining the class and magnitude of each violation;
 - (c) Starting with the base penalty (BP), determine the amount of penalty through application of the formula:

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

- (A) "P" is whether the Respondent has any prior violations of statutes, rules, orders and permits pertaining to environmental quality or pollution control. For the purpose of determining "P," Class I violation or equivalent means two Class II violations, one Class II and two Class III violations, or three Class III violations. The values for "P" and the finding which supports each are as follows:
 - (i) 0 if no prior violations or there is insufficient information on which to base a finding;
 - (ii) 1 if the prior violation is one Class II or two Class III's; or
 - (iii) 2 if the prior violation(s) is one Class I or equivalent.
 - (iv) For each additional Class I violation or Class I equivalent, the value of "P" is increased by 1.
 - (v) 10 if the prior violations are nine or more class I violations or equivalents, or if any of the prior violations were issued for any violation of ORS 468.996 (Civil Penalty for Intentional or Reckless Violation);

- (vi) The value of "P" will not exceed 10.
 - (vii) In determining the appropriate value for prior violations as listed above, LRAPA shall reduce the appropriate factor by:
 - (I) 2 if all the prior violations were issued more than 3 years before the date the current violation occurred;
 - (II) 4 if all the prior violations were issued more than 5 years before the date the current violation occurred.
 - (viii) Include all prior violations at all facilities owned or operated by the same violator within the state of Oregon;
 - (ix) The value of "P" may not be reduced below 0;
 - (x) Any prior violation which occurred more than 10 years prior to the time of the present violation shall not be included in the above determination.
- (B) "H" is past history of the Respondent in taking all feasible steps or procedures necessary or appropriate to correct any prior violations. The sum of the values for "P" and "H" may not be less than one unless the Respondent took extraordinary efforts to correct or minimize the effects of all prior violations. In no case shall the combination of the "P" factor and the "H" factor be a value less than zero. In such cases where the sum of the "P" and "H" values is a negative numeral, the finding and determination for the combination of these two factors shall be zero. The values for "H" and the finding which supports each are as follows:
- (i) -2 if Respondent corrected each prior violation;
 - (ii) -1 if violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as prior violations;
 - (iii) 0 if there is no prior history or if there is insufficient information on which to base a finding;
- (C) "O" is whether the violation was repeated or ongoing. A violation can be repeated independently on the same day, thus multiple occurrences may occur within one day. Each repeated occurrence of the same violation and each day of a violation with a duration of more than one day is a separate occurrence when determining the "O" factor. Each separate violation is also a separate occurrence when determining the "O" factor. The values for "O" and the finding which supports each are as follows:
- (i) 0 if there was only one occurrence of the violation or if there is insufficient information on which to base a finding under sub-subparagraphs (C)(ii)

through (C)(v);

- (ii) 2 if there were more than one but less than seven occurrences of the violation;
 - (iii) 3 if there were from seven to 28 occurrences of the violation;
 - (iv) 4 if there were more than 28 occurrences of the violation;
 - (v) LRAPA may, at its discretion, assess separate penalties for each occurrence of a violation. If LRAPA does so, the "O" factor for each affected violation will be set at 0. If LRAPA assesses one penalty for multiple occurrences, the penalty will be based on the highest classification and magnitude applicable to any of the occurrences.
- (D) "M" is the mental state of the Respondent. For any violation where the findings support more than one mental state, the mental state with the highest value will apply. The values for "M" and the finding that supports each are as follows:
- (i) 0 if there is insufficient information on which to base a finding under sub-paragraphs (D)(ii) through (D)(iv).
 - (ii) 2 if the Respondent had constructive knowledge (reasonably should have known) that the conduct would be a violation.
 - (iii) 4 if the Respondent's conduct was negligent.
 - (iv) 8 if the Respondent's conduct was reckless or the Respondent acted or failed to act intentionally with actual knowledge of the requirement.
 - (v) 10 if the Respondent acted flagrantly.
- (E) "C" is the Respondent's efforts to correct or mitigate the violation. The values for "C" and the finding which supports each are as follows:
- (i) -5 if the Respondent made extraordinary efforts to correct the violation or to minimize the effects of the violation, and made extraordinary efforts to ensure the violation would not be repeated.
 - (ii) -4 if the Respondent made extraordinary efforts to ensure that the violation would not be repeated.
 - (iii) -3 if the Respondent made reasonable efforts to correct the violation, or took reasonable affirmative efforts to minimize the effects of the violation.
 - (iv) -2 if the Respondent eventually made some efforts to correct the violation, or

to minimize the effects of the violation.

- (v) -1 if the Respondent made reasonable efforts to ensure that the violation would not be repeated.
 - (vi) 0 if there is insufficient information to make a finding under sub-subparagraphs (E)(i) through (E)(v) or (E)(vii) or if the violation or the effects of the violation could not be corrected or minimized.
 - (vii) 2 if the Respondent did not address the violation as described in sub-subparagraphs (E)(i) through (E)(v) and the facts do not support a finding under sub-subparagraph (E)(vi)
- (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.
- (i) Upon request of the 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 Respondent can demonstrate that the standard value does not reflect the Respondent's actual circumstance.
 - (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.
 - (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) 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 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 under ORS Chapter 468, 468.A or these rules and regulations.

Section 15-050 Additional Civil Penalties

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

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

- (1) The base penalties listed in subsection 15-050(2) are to be used in lieu of the penalty method in under paragraphs 15-025(1)(a) and (b).
- (2) The following base penalties apply:

- (a) \$100,000 if the violation was caused intentionally;
 - (b) \$150,000 if the violation was caused recklessly;
 - (c) \$200,000 if the violation was caused flagrantly.
- (3) The civil penalty is calculated using the following formula:
- $$BP + (.1 \times BP)(P + H + O + C) + EB, \text{ in accordance with the applicable subsections of section 15-030.}$$

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;

- (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;
- (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;
- (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;
- (o) Exceeding a hazardous air pollutant emission limit;
- (p) Failing to comply with an Emergency Action Plan;
- (q) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard that was established under New Source Review/Prevention of Deterioration (NSR/PSD);
- (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;
- (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;
- (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 or with an emission limitation or performance standard established under New Source Review/Prevention of Significant Deterioration, National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, Reasonably Available

Control Technology, Best Available Control Technology, Maximum Achievable Control Technology, Typically Achievable Control Technology, Lowest Achievable Emission Rate, or adopted under section 111(d) of the Federal Clean Air Act;

- (v) Causing emissions that are a hazard to public safety;
 - (w) Violating a work practice requirement for asbestos abatement projects;
 - (x) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;
 - (y) Conducting an asbestos abatement project by a person not licensed as an asbestos abatement contractor;
 - (z) Violating a title 43 disposal requirement for asbestos-containing waste material;
 - (aa) Failing to hire a licensed contractor to conduct an asbestos abatement project;
 - (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
 - (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, permit or

permit attachment, unless otherwise classified;

- (h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;
- (i) Failing to submit a timely and complete air toxic contaminant emission inventory as required under OAR 340-245-0005 through 340-245-8050;
- (j) Failing to comply with the outdoor burning requirements for commercial, construction, demolition, or industrial wastes in violation of title 47;
- (k) Failing to comply with outdoor burning requirements in violation of any provision of title 47, unless otherwise classified or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2);
- (l) Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of Stage I or Stage II vapor collection system;
- (m) Failing to provide timely, accurate or complete notification of an asbestos abatement project; or
- (n) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project.

(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 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) Exceeding an emission limit established 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.
- (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.

- (7) Violation of Emergency Action Plans: Major magnitude in all cases.
- (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.
- (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 PM₁₀ or PM_{2.5}; or

(D) The burning took place on a day when all outdoor burning was prohibited due to meteorological conditions.

Section 15-065 Appeals

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

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 16

Home Wood Heating Curtailment Program Enforcement

Section 16-001 Purpose

Lane County, Eugene and Springfield have enacted ordinances prohibiting the use of solid-fuel space heating devices under certain circumstances. Lane County enacted Ordinance Number 9-90 [Lane Code ("LC") 9.120 - 9.160], Eugene enacted Ordinance Number 19731 [Eugene Code ("EC") 6.250 - 6.270], and Springfield enacted Ordinance Number 5546 [Springfield Code ("SC") 4-8-4]. Each municipality also either delegated enforcement of the ordinances to LRAPA [L.C. § 9.145; Springfield Code § 4-8-4(4)], or authorized the City Manager to delegate enforcement to LRAPA (Eugene Code § 6.265). By Administrative Order No. 44-92-10, the Eugene City Manager has delegated authority to LRAPA to administer the ordinance. Thus, each jurisdiction has authorized LRAPA to enforce the solid-fuel space heating device ordinances. In addition, each jurisdiction has authorized LRAPA to use its own regulations and procedures to enforce the ordinances, and to impose penalties of \$50--\$500 for violations of the ordinances.

These regulations establish the procedures and penalties LRAPA will use to enforce those municipal codes. Except as expressly noted in this Title, these provisions shall provide the sole regulations for LRAPA's enforcement of the solid-fuel space heating provisions of the municipal codes.

Section 16-010 Definitions

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

1. "Director." The Director of the LRAPA and authorized deputies or officers.
2. "LRAPA." The Lane Regional Air Protection Agency, a regional air quality control authority.
3. "Person." Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.
4. "Person in Charge of Property." An agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property.

Section 16-100 Civil Penalty Schedule

In addition to any other penalty provided by law, LRAPA may assess, for violation of LC Section 9.135, EC Section 6.255, or SC Section 4-8-4(2), the following amounts:

- | | | | |
|----|-------------------|---|-------|
| 1. | Class 1 violation | - | \$ 50 |
| 2. | Class 2 violation | - | \$100 |
| 3. | Class 3 violation | - | \$200 |
| 4. | Class 4 violation | - | \$400 |

Section 16-110 Classification of Violations

1. Class 1 Violation. A violation by a person at a time when the person had no civil penalties

under this Title 16 on his/her record during the previous 36 months.

2. Class 2 Violation. A violation by a person at a time when the person had only one civil penalty under this Title 16 on his/her record during the previous 36 months.
3. Class 3 Violation. A violation by a person at a time when the person had two civil penalties under this Title 16 on his/her record within the previous 36 months.
4. Class 4 Violation. A violation by a person at a time when the person had three or more civil penalties under this Title 16 on his/her record within the previous 36 months.
5. Penalties on Record. For purposes of this section, a person has a civil penalty on his or her record if the person has paid a civil penalty under this Title 16; LRAPA has entered a default order against the person for a violation of this Title 16; or a hearings official has entered an order against the person for violation of this Title 16 after a hearing.
6. Each day of violation is a separate offense, subject to penalty.

Section 16-120 Notice of Violation

1. A notice of violation may be issued, without any prior notice, whenever the Director has cause to believe that a violation of LC Section 9.135, EC Section 6.255, or SC Section 4-8-4(2) has occurred. The notice shall be served by certified mail or personal delivery at the address where the violation is alleged to have occurred.
2. If the notice contains an assessment of a civil penalty imposed pursuant to Section 16-100 of this Title, the notice shall also advise the person to whom the notice is directed that he or she may:
 - A. Waive any hearing on the matter and pay the civil penalty; or
 - B. Waive any hearing on the matter, pay the civil penalty, and submit a written statement to be considered in mitigation of the violation; or
 - C. Request a hearing on the matter, pursuant to Section 16-130 of this Title, to be conducted in the manner set forth in Section 16-140 of this Title.

The notice shall contain a statement that failure to comply with one of the options set forth above within 21 days of the date the notice of violation was mailed or served will result in the entry of an order of default and judgment based on the notice of violation.

3. No hearing or appeal rights shall be afforded if the notice of violation does not include the imposition of a penalty.

Section 16-130 Appeal of Civil Penalty

1. A person who has been served with a written notice of violation which includes the imposition of a civil penalty shall have 21 days from the date of mailing or personal delivery of the notice in which to file a written answer or an application for hearing.
2. In the answer, the person shall admit or deny all factual matters and shall affirmatively allege any and all affirmative claims or defenses the person may have and the reasoning in support thereof. Except for good cause shown:

- A. Factual matters not controverted shall be presumed admitted;
 - B. Failure to raise a claim or defense shall be presumed to be a waiver of such claim or defense;
 - C. New matters alleged in the answer shall be presumed to be denied unless admitted in a subsequent pleading or stipulation by LRAPA; and
 - D. Evidence shall not be taken on any issue not raised in the notice and the answer unless such issue is specifically determined by the hearings official to be within the scope of the proceeding.
- 3. In the absence of a timely answer, the Director, on behalf of LRAPA, may issue a default order and judgment, based upon a prima facie case made on the record, for the relief sought in the notice.
 - 4. Informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default. Informal settlement may be made by written agreement of the parties consenting to a fine or other form of intermediate sanction.
 - 5. Upon a showing of good cause and general relevance, any party to a contested case shall be issued subpoenas to compel the attendance of witnesses and the production of books, records and documents.
 - A. Subpoenas may be issued by:
 - (1) A Hearings Officer; or
 - (2) LRAPA; or
 - (3) An attorney of record for the party requesting the subpoena.
 - B. Each subpoena authorized by this section shall be served personally upon the witness by the party or any person over 18 years of age.
 - C. Witnesses who are subpoenaed, other than parties or officers or employees of LRAPA, shall receive the same fees and mileage as in civil actions in the circuit court.
 - D. The party requesting the subpoena shall be responsible for serving the subpoena and tendering the fees and mileage to the witness.
 - E. A person present in a hearing room before a Hearings Officer during the conduct of a contested case hearing may be required, by order of the Hearings Officer, to testify in the same manner as if he or she were in attendance before the Hearings Officer upon a subpoena.
 - F. Upon a showing of good cause a Hearings Officer may modify or withdraw a subpoena.
 - G. Nothing in this section shall preclude informal arrangements for the production of witnesses or documents, or both.

Section 16-140 Conducting Contested Case Evidentiary Hearings

- 1. The contested case evidentiary hearing shall be conducted by and under the control of a

Hearings Officer.

2. If the Hearings Officer has a potential conflict of interest as defined in ORS 244.020(4), that officer shall comply with the requirements of ORS Chapter 244 (e.g., ORS 244.120 and 244.130).
3. The hearing shall be conducted, subject to the discretion of the Hearings Officer, so as to include the following:
 - A. The staff report and evidence of the proponent in support of its action;
 - B. The statement and evidence of opponents;
 - C. Comments and questions;
 - D. Any rebuttal evidence by proponents and opponents;
 - E. Any closing arguments by parties.
4. The Hearings Officer shall have the right to question witnesses.
5. The hearing may be continued with recesses as determined by the Hearings Officer.
6. The Hearings Officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial matter.
7. Exhibits shall be marked and maintained by LRAPA as part of the record of the proceeding.

Section 16-150 Evidentiary Rules

1. Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.
2. Irrelevant, immaterial or unduly repetitious evidence shall be excluded.
3. All offered evidence not objected to will be received by the Hearings Officer subject to the officer's power to exclude irrelevant, immaterial or unduly repetitious matter.
4. Evidence objected to may be received by the Hearings Officer. Rulings on its admissibility or exclusion, if not made at the hearing, shall be made on the record at or before the time a final order is issued.

Section 16-160 Final Orders

1. A final order shall be issued by the Hearings Officer, who may direct any party to prepare the final order.
2. Final orders on contested cases shall be in writing and shall include the following:
 - A. Rulings on admissibility of offered evidence when the rulings are not set forth in the record.
 - B. Findings of fact--those matters that are either agreed as fact or that, when

disputed, are determined by the Hearings Officer on substantial evidence to be facts over contentions to the contrary. A finding must be made on each fact necessary to reach the conclusions of law on which the order is based.

- C. Conclusion(s) of law--applications of the controlling law to the facts found and the legal results arising therefrom.
- D. Order--the action taken by LRAPA as a result of the facts found and the legal conclusions arising therefrom.

Section 16-170 Default Orders

1. When LRAPA has given a party an opportunity to request a hearing and the party fails to make a request within the specified time, or when LRAPA has set a specified time and place for a hearing and the party fails to appear at the specified time and place, the Director may enter a final order by default.
2. LRAPA may issue an order of default only after a prima facie case on the record has been made. The record may be made by either the two ways:
 - A. By the hearings officer at the time specified for the hearing; or
 - B. By the Director at a separate meeting convened by the Director.
3. The record shall be complete at the time of the notice at the time the default order is issued.
4. The record may consist of oral (transcribed, recorded or reported) or written evidence or a combination of oral and written evidence. When the record is made at the time the notice or order is issued, the LRAPA file may be designated as the record. In all cases, the record must contain substantial evidence to support the findings of fact.
5. When the Hearings Officer has set a specified time and place for a hearing in a matter in which only one party is before the Hearings Officer, and that party subsequently notifies LRAPA that the party will not appear at such specified time and place, the Hearings Officer may enter a default order, cancel the hearing and follow the procedure described in subsections 2 and 4 of this section.
6. Any default order shall be the final order of LRAPA.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 20

INDIRECT SOURCES

Section 20-100 Policy and Jurisdiction

The Environmental Quality Commission (Commission) has found and declared Indirect Sources to be air contamination sources as defined in ORS 468.275. The Commission has, effective December 20, 1974, authorized and conferred jurisdiction upon the Agency to perform all or any of the provisions of these Rules within its boundary, except the Commission retains jurisdiction of highway sections which cross Agency boundaries, until such authority and jurisdiction shall be withdrawn for cause by the Commission.

Section 20-110 Definitions

- (1) "Air Quality Maintenance Area (AQMA)" means any area that has been identified by the Department as having the potential for exceeding any State ambient air quality standard.
- (2) "Air Quality Maintenance Area (AQMA) Analysis" means an analysis of the impact on air quality in an AQMA of emissions from existing air contaminant sources and emissions associated with projected growth and development.
- (3) "Aircraft Operations" means any aircraft landing or takeoff.
- (4) "Airport" means any area of land or water which is used or intended for use for the landing and takeoff of aircraft, or any appurtenant areas, facilities, or rights-of-way such as terminal facilities, parking lots, roadways, and aircraft maintenance and repair facilities.
- (5) "Associated Parking" means a discrete parking facility or facilities owned, operated and/or used in conjunction with an Indirect Source.
- (6) "Average Daily Traffic" means the total traffic volume during a given time period in whole days greater than one day and less than one year divided by the number of days in that time period, commonly abbreviated as ADT.
- (7) "Commence Construction" means to begin to engage in a continuous program of on-site construction or on-site modifications, including site clearance, grading, dredging, or landfilling in preparation for the fabrication, erection, installation or modification of an indirect source. Interruptions and delays resulting from acts of God, strikes, litigation or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.
- (8) "Commission" means the Environmental Quality Commission.
- (9) "Department" means the Department of Environmental Quality.
- (10) "Director" means Director of the Regional Agency and authorized deputies or officers.

- (11) "Expressway" means a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at major intersections.
- (12) "Freeway" means an Expressway as defined in Sub-section 20-110(11) with full control of access.
- (13) "Highway Section" means a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multi-year highway improvement program.
- (14) "Indirect Source" means a facility, building, structure, or installation, or any portion or combination thereof, which indirectly causes or may cause mobile source activity that results in emissions of an air contaminant for which there is a state standard. Such Indirect Sources shall include, but not be limited to:
- (a) Highways and roads
 - (b) Parking facilities
 - (c) Retail, commercial, and industrial facilities
 - (d) Recreation, amusement, sports, and entertainment facilities
 - (e) Airports
 - (f) Office and government buildings
 - (g) Apartment and mobile home parks
 - (h) Educational facilities
 - (i) Hospital facilities
 - (j) Religious facilities
- (15) "Indirect Source Construction Permit" means a written permit in letter form issued by the Agency, bearing the signature of the Director, which authorizes the permittee to commence construction of an indirect source under construction and operation conditions and schedules as specified in the permit.
- (16) "Indirect Source Emission Control Program (ISECP)" means a program which reduces mobile source emissions resulting from the use of the indirect source. An ISECP may include, but is not limited to:
- (a) Posting transit route and scheduling information.
 - (b) Construction and maintenance of bus shelters and turnout lanes.
 - (c) Maintaining mass transit fare reimbursement programs.
 - (d) Making a car pool matching system available to employees, shoppers, students, residents, etc.
 - (e) Reserving parking spaces for car pools.
 - (f) Making parking spaces available for park-and-ride stations.
 - (g) Minimizing vehicle running time within parking lots through the use of sound parking lot design.
 - (h) Ensuring adequate gate capacity by providing for the proper number and location of entrances and exits and optimum signalization for such.
 - (i) Limiting traffic volume so as not to exceed the carrying capacity of roadways.
 - (j) Altering the level of service at controlled intersections.

- (k) Obtaining a written statement of intent from the appropriate public agency(s) on the disposition of roadway improvements, modifications, and/or additional transit facilities to serve the individual source.
 - (l) Construction and maintenance of exclusive transit ways.
 - (m) Providing for the collection of air quality monitoring data at Reasonable Receptor and Exposure Sites.
 - (n) Limiting facility modifications which can take place without resubmission of a permit application.
- (17) "Mobile Source" means self-propelled vehicles, powered by internal combustion engines, including but not limited to automobiles, trucks, motorcycles, and aircraft.
- (18) "Off-street Area or Space" means any area or space not located on a public road dedicated for public use.
- (19) "Parking and Traffic Circulation Plan" means a plan developed by a city, county, or regional government, or regional planning agency, the implementation of which assures the attainment and maintenance of the State's ambient air quality standards.
- (20) "Parking Facility" means any building, structure, lot or portion thereof, designed and used primarily for the temporary storage of motor vehicles in designated parking spaces.
- (21) "Parking Space" means any off-street area of space below, above, or at ground level, open or enclosed, that is used for parking one motor vehicle at a time.
- (22) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State and any agencies thereof, and the federal government and any agencies thereof.
- (23) "Population" means that population estimate most recently published by the Center for Population Research and Census, Portland State University, or any other population estimate approved by the Department.
- (24) "Regional Agency" means a regional air quality control Agency established under the provisions of ORS 468.505.
- (25) "Regional Planning Agency" means any planning agency which has been recognized as a substate-clearinghouse for the purposes of conducting project review under the United States Office of Management and Budget Circular Number A-95, or other governmental agency having planning authority.
- (26) "Reasonable Receptor and Exposure Sites" means locations where people might reasonably be expected to be exposed to air contaminants generated in whole or in part by the indirect source in question. Location of ambient air sampling sites and methods of sample collection shall conform to criteria on file with the Department of Environmental Quality.
- (27) "Sensitive Area" means locations which are actual or potential air quality non-attainment areas, as determined by LRAPA.
- (28) "Vehicle Trip" means a single movement by a motor vehicle which originates or terminates at or uses an indirect source.

Section 20-115 Indirect Sources Required to have Indirect Source Construction Permits

- (1) The owner, operator, or developer of an indirect source identified in sub-section 20-115(2) of this section shall not commence construction of such a source after December 31, 1974 without an approved Indirect Source Construction Permit issued by the Agency.
- (2) All indirect sources meeting the criteria of this subsection relative to type, location, size, and operation are required to apply for an Indirect Source Construction Permit:
 - (a) The following sources in or within five (5) miles of the municipal boundaries of the City of Eugene or City of Springfield.
 - (A) Any parking facility or other indirect source with associated parking being constructed or modified to create new or additional parking (or associated parking) capacity of 250 or more parking spaces.
 - (B) Any highway section being proposed for construction with an anticipated annual Average Daily Traffic volume of 20,000 or more motor vehicles per day within ten years after completion, or being modified so that the annual Average Daily Traffic on that highway section will be increased to 20,000 or more motor vehicles per day or will be increased by 10,000 or more motor vehicles per day within ten years after completion.
 - (b) Except as otherwise provided in this section, the following sources within Lane County:
 - (A) Any parking facility or other indirect source with associated parking being constructed or modified to create new or additional parking (or associated parking) capacity of 500 or more parking spaces.
 - (B) Any highway section being proposed for construction with an anticipated annual Average Daily Traffic volume of 20,000 or more motor vehicles per day within ten years after completion, or being modified so that the annual Average Daily Traffic on that highway section will be 20,000 or more motor vehicles per day or will be increased by 10,000 or more motor vehicles per day within ten years after completion.
 - (c) Any airport being proposed for construction with projected annual aircraft operations of 50,000 or more within ten years after completion, or being modified in any way so as to increase the projected number of annual aircraft operations by 25,000 or more within 20 years after completion.
- (3) Where an indirect source is constructed or modified in increments which individually are not subject to review under this section, and which are not part of a program of construction or modification in planned incremental phases approved by the Director, all such increments commenced after January 1, 1975 shall be added together for determining the applicability of this rule.
- (4) An Indirect Source Construction Permit may authorize more than one phase of construction, where commencement of construction or modifications of successive phases will begin over

acceptable periods of time referred to in the permit; and thereafter construction or modification of each phase may be begun without the necessity of obtaining another permit.

- (5) Persons applying for an Indirect Source Permit shall at the time of application pay the following fees:
 - (a) Filing Fee of \$100 (required of all applicants);
 - (b) Basic Application Processing Fee of \$500 (required of all applicants);
 - (c) Extended Analysis Fee of \$2,000 (required of applicants with parking facilities of 1,000 or greater spaces or for those facilities locating in "sensitive areas" which are not part of an approved parking and circulation plan).

Section 20-120 Establishment of an Approved Parking and Traffic Circulation Plan(s) by City, County, or Regional Government or Regional Planning Agency

- (1) Requirements for establishment of approved parking and traffic circulation plan(s)
 - (a) Upon determination by the Regional Agency that control of parking spaces and traffic circulation is necessary to ensure attainment and maintenance of state and national ambient air quality standards (S/NAAQS), the Regional Agency shall notify the Commission of the geographic areas determined or projected to be in non-compliance. The basis for the Agency's determination shall be the findings and conclusions of an Air Quality Maintenance (AQMA) analysis or similar air quality study. Upon submission of its findings to the Commission, the Department shall give notice to cities, counties, regional governmental units, or regional planning agencies located in geographic areas determined or projected to be in non-compliance with S/NAAQS, that a public hearing shall be held on the Agency's findings related to the need to control parking spaces and traffic circulation. After reviewing the public hearing testimony and the Agency's findings, the Commission shall determine if it is in concurrence with the Agency's findings. Upon the Commission's concurrence with the Agency findings, the Regional Agency shall so notify the city, county, regional government unit or regional planning agency of the geographic areas determined or projected to be in non-compliance. Within one-hundred twenty (120) days of receipt of such notification, the appropriate city, county, regional or other local governmental unit or planning agency shall proceed, in accordance with a specific plan and time schedule agreed to by the appropriate governmental unit or planning agency and the Agency, to develop and implement a Parking and Traffic Circulation Plan. The Parking and Traffic Circulation Plan, where required, shall be developed in coordination with the local and regional comprehensive planning process pursuant to the requirements of ORS 197.005 et. seq. The required plan shall be submitted to the Regional Agency for approval within the agreed time schedule but shall not be more than three (3) years after the appropriate city, county or regional government or regional planning agency is notified of the necessity for a Parking and Traffic Circulation Plan for an area within its jurisdiction.
 - (b) Within sixty (60) days of the notification that development and submittal of Parking and Traffic Circulation Plans are required under OAR 340-20-120(1) or this rule, each designated city, county, or regional government or regional planning agency shall notify the Regional Agency in writing of the agency or department and individual responsible for coordination and development of Parking and Traffic Circulation Plans.

- (c) Notification shall include:
 - (A) The geographic area requiring the development of Parking and Traffic Circulation Plans,
 - (B) The time period over which the Plan shall attain and maintain S/NAAQS, and
 - (C) The air contaminants for which the plan is to be developed.
- (d) The Parking and Traffic Circulation Plan shall include, but not be limited to:
 - (A) Legally identifiable plan boundaries,
 - (B) Total parking space capacity allocated to the plan area, where applicable,
 - (C) Measures as necessary to provide for the attainment and maintenance of S/NAAQS for the air contaminants for which the Parking and Traffic Circulation Plan area was identified,
 - (D) Duly enforceable rules, regulations and ordinances that implement measures that provide for attainment and maintenance of S/NAAQS for a period to be specified by the Regional Agency,
 - (E) A description of the air quality levels expected as a result of the implementation of the Parking and Traffic Circulation Plan,
 - (F) Other applicable information which would allow evaluation of the Plan such as, but not limited to, scheduling of construction, emission factors, and criteria, guidelines and zoning ordinances applicable to the Plan area,
 - (G) A description of the administrative procedures to be used in implementing each control measure included in the Parking and Traffic Circulation Plan,
 - (H) A description of the enforcement methods used to ensure compliance with measures adopted as part of the Parking and Traffic Circulation Plan,
 - (I) Identification and responsibilities of each city, county, and regional government or regional planning agency designated under OAR 340-20-120(1) of this rule to implement the Parking and Traffic Circulation Plan.
- (2) The Agency shall hold a public hearing on each Regional Parking and Traffic Circulation Plan submitted, and on each proposed revocation or substantial modification thereof, allowing at least thirty (30) days for written comment from the public and from interested agencies.
- (3) Upon approval of a submitted Regional Parking and Circulation Plan, the Plan shall be identified as the approved Regional Parking and Traffic Circulation Plan, the appropriate governmental unit or planning agency shall be notified and the plan used for the purposes and implementation of this rule.

- (4) The appropriate city, county, or regional government or regional planning agency shall annually review an approved Parking and Traffic Circulation Plan to determine if the Plan continues to be adequate for the maintenance of air quality in the Plan area and shall report its conclusions to the Agency.
- (5) The Regional Agency shall initiate a review of an approved Parking and Traffic Circulation Plan if it is determined that the Parking and Traffic Circulation Plan is not adequately maintaining the air quality in the Plan area.
- (6) A city, county or regional government or regional planning agency may submit Parking and Traffic Circulation Plan to the Department or Agency for approval without being required to do so as stated in OAR 340-20-120(1).

Section 20-125 Information and Requirements Applicable to Indirect Source(s) Construction Permit Applications Where An Approved Parking and Traffic Circulation Plan is on File

(1) Application Information Requirements:

(a) Parking facilities and indirect sources other than highway sections:

- (A) A completed application form
- (B) A map showing the location of the site
- (C) A description of the proposed and prior use
- (D) A site plan showing the location and quantity of parking spaces at the indirect source and associated parking areas, points of motor vehicle ingress and egress to and from the site and associated parking
- (E) A ventilation plan for subsurface and enclosed parking
- (F) A written statement from the appropriate planning agency that the indirect source in question is consistent with an approved Parking and Traffic Circulation Plan or any adopted transportation plan for the region.
- (G) A reasonable estimate of the effect the project has on total parking approved for any specific grid area and Parking and Traffic Circulation Plan

(b) Highway section(s):

- (A) Items (A) through (C) of subsection 20-125(1)(a)
- (B) A written statement from the appropriate planning agency that the indirect source in question is consistent with an approved Parking and Circulation Traffic Plan and any adopted transportation plan for the region
- (C) A reasonable estimate of the effect the project has on total vehicle miles traveled within the Parking and Traffic Circulation Plan area.

- (2) Within fifteen (15) days after the receipt of an application for a permit or additions thereto, the Agency shall advise the owner or operator of the indirect source of any additional information required as a condition precedent to issuance of a permit. An application shall not be considered complete until the required information is received by the Agency.

Section 20-129 Information and Requirements Applicable to Indirect Source(s) Construction Permit Application Where No Approved Parking and Traffic Circulation Plan is on File

(1) Application information requirements:

- (a) For parking facilities and other indirect sources with associated parking, other than highway sections and airports, with planned construction resulting in total parking capacity for 1000 or more vehicles, the following information shall be submitted:

(A) Items (A) through (E) of subsection 20-125(1)(a)

(B) Subsection 20-125(2) shall be applicable

(C) Measured or estimated carbon monoxide and lead concentrations at reasonable receptor and exposure sites. Measurements shall be made prior to construction and estimates shall be made for the first, fifth, and tenth years after the indirect source and associated parking are completed or fully operational. Such estimates shall be made for average and peak operating conditions.

(D) Evidence of the compatibility of the indirect source with any adopted transportation plan of the area.

(E) An estimate of the average and maximum daily vehicle trips detailed in one- and eight-hour periods, generated by the movement of mobile sources to and from the parking facility and/or associated parking facility for the following time periods:

(i) First, fifth and tenth years after completion of construction of each planned incremental phase of the indirect source and having a total parking capacity of more than 5,000 parking spaces.

(ii) First and fifth years after completion of each planned incremental phase of the indirect source having a total parking capacity of 5,000 or less parking spaces.

(F) An estimate of the gross emissions of carbon monoxide, lead, reactive hydrocarbons and oxides of nitrogen based on the analysis performed in sub-sections 20-129(1)(a)(E) and 20-129(1)(a)(G).

(G) An estimate of the Average Daily Traffic, peak hour and peak eight-hour traffic volumes for all roads, streets, and arterials within 1/4 mile of the indirect source and for all freeways and expressways within 1/2 mile of the nearest boundary of the indirect source for the time periods as stated in subsections 20-129(1)(a)(E)(i) and 20-129(1)(a)(E)(ii).

(H) An estimate of the effect of the operation of the indirect source on total vehicle miles traveled.

- (I) An estimate of the additional residential, commercial, and industrial developments which may occur concurrent with, or as the result of the construction, and use of the indirect source. This shall also include an air quality impact assessment of such development.
 - (J) Estimates of the effect of the operation and use of the indirect source on traffic patterns, volumes, and flow in, on or within 1/4 mile of the indirect source.
 - (K) A description of the availability and type of mass transit presently serving or projected to serve the proposed indirect source. This description shall only include mass transit operating within 1/4 mile of the boundary of the indirect source.
 - (L) A description of the indirect source emission control program if such program is necessary in order to be in compliance with the requirements of subsections 20-130(5)(a), (b), and (c).
- (b) For parking facilities and other indirect source with associated parking, other than highway sections and airports, with planned construction or parking capacity for 250 to 1000 vehicles, the following information shall be submitted:
- (A) Items (A) through (E) of subsection 20-125(1)(a) and items (E) and (K) of subsection 20-129(1)(a). The Agency will request Item (L) of subsection 20-129(1)(a) where it is necessary in order to be in compliance with the requirements of subsections 20-130(5)(a), (b), and (c).
 - (B) Subsection 20-125(1) and (2) shall be applicable. Such additional information may include such items as (C), (D), (F), (G), and (I) of subsection 20-129(1)(a).
 - (C) For airports, the following information shall be submitted:
 - (i) Items (A) through (E) of subsection 20-125(1)(a).
 - (ii) Subsection 20-125(2) shall be applicable.
 - (iii) A map showing the topography of the area surrounding and including the site.
 - (iv) Evidence of the compatibility of the airport with any adopted transportation plan for the area.
 - (v) An estimate of the effect of the operation of the airport on total vehicle miles traveled.
 - (vi) Estimates of the effect of the operation and use of the airport on traffic patterns, volumes, and flow in, on, or within 1/4 mile of the airport.
 - (vii) An estimate of the average and maximum number of aircraft operations per day by type of aircraft in the first, fifth, and tenth years after completion of the airport.
 - (viii) Expected passenger loadings in the first, fifth, and tenth years after completion.
 - (ix) Measured or estimated carbon monoxide and lead concentrations at reasonable receptor and exposure sites. Measurements shall be made for the first, fifth, and tenth years after the airport and associated parking are completed or fully operational. Such estimates shall be made for average and peak operating conditions.
 - (x) Alternative designs of the airport, i.e., size, location, parking capacity, etc., which would minimize the adverse environmental impact of the airport.

- (xi) An estimate of the additional residential, commercial and industrial development which may occur within three (3) miles of the boundary of the new or modified airport as the result of the construction and use of the airport.
- (xii) An estimate of the area-wide air quality impact analysis for carbon monoxide, photochemical oxidants, nitrogen oxides, and lead particulate. This analysis would be based on the emissions projected to be emitted from mobile and stationary sources within the airport and from mobile and stationary source growth within three (3) miles of the boundary of the airport. Projections should be made for the first, fifth, and tenth years after completion.
- (xiii) A description of the availability and type of mass transit presently serving or projected to serve the proposed airport. This description shall only include mass transit operating within 1/4 mile of the boundary of the airport.

(D) For highway section, the following information shall be submitted:

- (i) Items (A) through (C) of subsection 20-125(1)(a).
- (ii) Subsection 20-125(2) shall be applicable.
- (iii) A map showing the topography of the highway section and points of ingress and egress.
- (iv) The existing average and maximum daily traffic on the highway section proposed to be modified.
- (v) An estimate of the maximum traffic levels for one- and eight-hour periods in the year in which the maximum air quality impact is projected and the first and last years the highway section is projected not to be in compliance with the requirements of subsections 20-130(5)(a), (b), and (c).
- (vi) An estimate of vehicle speeds for average and maximum traffic volumes for the year in which the maximum air quality impact is projected and the first and last years the highway section is projected not to be in compliance with the requirements of subsection 20-130(5)(a), (b), and (c).
- (vii) A description of the general features of the highway section and associated right-of-way.
- (viii) An analysis of the impact of the highway section on the development of mass transit and other modes of transportation such as bicycling.
- (ix) Alternative designs of the highway section, i.e. size, location, etc., which would minimize adverse environmental effects of the highway section.
- (x) The compatibility of the highway section with an adopted comprehensive transportation plan for the area.
- (xi) An estimate of the additional residential, commercial, and industrial development which may occur as the result of the construction and use of the highway section, including an air quality assessment of such development.
- (xii) Estimates of the effect of the operation and use of the indirect source on major shifts in traffic patterns, volumes, and flow in, on or within 1/4 mile of the highway section.
- (xiii) An analysis of the area-wide air quality impact for carbon monoxide, photochemical oxidants, nitrogen oxides, and lead particulates for the year in which maximum air quality impact is projected and the first and last years the highway section is projected not to be in compliance with the requirements of subsections 20-130(5)(a), (b), and (c). This analysis

would be based on the change in total vehicle miles traveled in the area selected for analysis.

- (xiv) The total air quality impact (carbon monoxide and lead) of maximum and average traffic volumes. This analysis would be based on the estimates of an appropriate diffusion model at reasonable receptor and exposure sites. Measurements shall be made prior to construction and estimates shall be made for the year in which maximum air quality impact is projected and the first and last years the highway section is projected not be in compliance with the requirements of subsections 20-130(5)(a), (b), and (c).
- (xv) Where applicable and requested by the Agency, an Agency-approved surveillance plan for motor vehicle related air contaminants.

Section 20-130 Issuance or Denial of Indirect Source Construction Permits

- (1) Issuance of an indirect source construction permit shall not relieve the permittee from compliance with other applicable provisions of the Clean Air Act Implementation Plan for Oregon or the other rules of this Agency.
- (2) Within twenty (20) days after receipt of a complete permit application, the Agency shall:
 - (a) Issue twenty (20) day notice and notify appropriate newspapers and any interested person(s) who has requested to receive such notices in each region in which the proposed indirect source is to be constructed of the opportunity for written public comment on the information submitted by the applicant, the Agency's evaluation of the proposed project, the Agency's proposed construction permit where applicable.
 - (b) Make publicly available in at least one location in each region in which the proposed indirect source would be constructed, the information submitted by the applicant, the Agency's evaluation of the proposed project, the Agency's proposed decision, and the Agency's proposed construction permit where applicable.
- (3) Within sixty (60) days of the receipt of a complete permit application, the Agency shall act to either disapprove a permit application or approve it with possible conditions.
- (4) Conditions of an Indirect Source Construction Permit may include, but are not limited to:
 - (a) Posting transit route and scheduling information.
 - (b) Construction and maintenance of bus shelters and turn-out lanes.
 - (c) Maintaining mass transit fare reimbursement programs.
 - (d) Making a car pool matching system available to employees, shoppers, students, residents, etc.
 - (e) Reserving parking spaces for car pools.
 - (f) Making parking spaces for car pools.
 - (g) Minimizing vehicle running time within parking lots through the use of sound parking lot design.

- (h) Ensuring adequate gate capacity by providing for the proper number and location of entrances and exits and optimum signalization for such.
 - (i) Altering the level of service at controlled intersections.
 - (j) Limiting traffic volume so as not to exceed the carrying capacity of roadways.
 - (k) Obtaining a written statement of intent from the appropriate public agency(s) on the disposition of roadway improvements, modifications and/or additional transit facilities to serve the individual source.
 - (l) Construction and maintenance of exclusive transit ways.
 - (m) Providing for the collection of air quality monitoring data at reasonable receptor and exposure sites.
 - (n) Limiting facility modifications which can take place without resubmission of a permit application.
 - (o) Completion and submission of a Notice of Completion form prior to operation of the facility.
 - (p) An Indirect Source Emission Control Program where it is necessary in order to be in compliance with the requirements of subsections 20-130(5)(a), (b), and (c).
- (5) An Indirect Source Construction Permit may be withheld if:
- (a) The indirect source will cause a violation of the Clean Air Act Implementation Plan for Oregon.
 - (b) The indirect source will delay the attainment of or cause a violation of any state or regional ambient air quality standard.
 - (c) The indirect source causes any other indirect source or system of indirect sources to violate any state or regional ambient air quality standard.
 - (d) The applicable requirements for an Indirect Source Construction Permit application are not met.
- (6) Any owner or operator of an indirect source operating without a permit required by this rule, or operating in violation of any of the conditions of an issued permit shall be subject to civil penalties and/or injunctions.
- (7) If the Agency shall deny, revoke, or modify an Indirect Source Construction permit, it shall issue an order setting forth its reasons in essential detail.

- (8) A denial or revocation of an Indirect Source Permit may be appealed as a contested case pursuant to Title 14 of these rules. A permit holder may request a hearing on a proposed modification pursuant to Section 14.120.
- (9) An Indirect Source Construction Permit shall be applied for at least ninety (90) days in advance of the anticipated start of construction.

Section 20-135 Permit Duration

- (1) An Indirect Source Construction Permit issued by the Agency shall remain in effect until modified or revoked by the Agency.
- (2) The Agency may remove the permit of any indirect source operating in violation of the construction, modification, or operation conditions set forth in its permit.
- (3) An approved permit may be conditioned to expire if construction or modification is not commenced within eighteen (18) months after receipt of the approved permit. In the case of a permit covering construction or modification in planned incremental phases, the permit may be conditioned to expire if any phase of construction or modification is not commenced within eighteen (18) months of the time period(s) stated in the initial permit. The Director may extend such time period upon a satisfactory showing by the permittee that an extension is justified.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 23

VARIANCES

Section 23-005 Conditions for Granting

The Board of Directors may grant specific variances from the particular requirements of any rule, regulation or order to such specific person or class of persons or such specific air contamination source, upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulation or order is inappropriate because of conditions beyond the control of the persons granted such variance or because of special circumstances which would render strict compliance unreasonable, burdensome, or impractical due to special physical conditions or cause, or because strict compliance would result in substantial curtailment or closing down of a business, plant, or operation, or because no other alternative facility or method of handling is yet available. Such variances may be limited in time.

Section 23-010 Procedures for Requesting

Any person requesting a variance shall make his request in writing and shall state in a concise manner the facts to show cause why such variance should be granted. All persons requesting a variance shall, at the time of application, pay the following fees:

1. A non-refundable filing fee of \$75,
2. One of two application processing fees:
 - A. \$150 for sources or activities not subject to Air Contaminant Discharge Permit, or
 - B. \$500 for sources or processes subject to Air Contaminant Discharge Permits.

Section 23-015 Period of Variance

Variances shall be for a period of time not to exceed twelve (12) months, but may be renewed for a similar period of time by the Board of Directors upon reapplication.

Section 23-020 Revocation or modification

A variance granted may be revoked or modified by the Board of Directors after a public hearing held upon not less than ten (10) days notice. Such notice shall be served upon the holder of the variance and all persons who have filed with the Board of Directors a written request for such notification.

Section 23-025 Filing and Review

A copy of each variance granted shall be filed with the Department of Environmental Quality within fifteen (15) days after being granted.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 29

DESIGNATION OF AIR QUALITY AREAS

Section 29-0010 Definitions

The definitions in title 12 and this section apply to this title. If the same term is defined in this section and title 12, the definition in this section applies to this title. Definitions of boundaries in this section also apply to LRAPA Rules and Regulations.

(1) "Eugene-Springfield UGB" means the area within the bounds beginning at the Willamette River at a point due east from the intersection of East Beacon Road and River Loop No.1; thence southerly along the Willamette River to the intersection with Belt Line Road; thence easterly along Belt Line Road approximately one-half mile to the intersection with Delta Highway; thence northwesterly and then northerly along Delta Highway and on a line north from the Delta Highway to the intersection with the McKenzie River; thence generally southerly and easterly along the McKenzie River approximately eleven miles to the intersection with Marcola Road; thence southwesterly along Marcola Road to the intersection with 42nd Street; thence southerly along 42nd Street to the intersection with the northern branch of US Highway 126; thence easterly along US Highway 126 to the intersection with 52nd Street; thence north along 52nd Street to the intersection with High Banks Road; thence easterly along High Banks Road to the intersection with 58th Street; thence south along 58th Street to the intersection with Thurston Road; thence easterly along Thurston Road to the intersection with the western boundary of Section 36, T17S, R2W; thence south to the southwest corner of Section 36, T17S, R2W; thence west to the Springfield City Limits; thence following the Springfield City Limits southwesterly to the intersection with the western boundary of Section 2, T18S, R2W; thence on a line southwest to the Private Logging Road approximately one-half mile away; thence southeasterly along the Private Logging Road to the intersection with Wallace Creek; thence southwesterly along Wallace Creek to the confluence with the Middle Fork of the Willamette River; thence generally northwesterly along the Middle Fork of the Willamette River approximately seven and one-half miles to the intersection with the northern boundary of Section 11, T18S, R3W; thence west to the northwest corner of Section 10, T18S, R3W; thence south to the intersection with 30th Avenue; thence westerly along 30th Avenue to the intersection with the Eugene City Limits; thence following the Eugene City Limits first southerly then westerly then northerly and finally westerly to the intersection with the northern boundary of Section 5, T18S, R4W; thence west to the intersection with Greenhill Road; thence north along Greenhill Road to the intersection with Barger Drive; thence east along Barger Drive to the intersection with the Eugene City Limits (Ohio Street); thence following the Eugene City Limits first north then east then north then east then south then east to the intersection with Jansen Drive; thence east along Jansen Drive to the intersection with Belt Line Road; thence northeasterly along Belt Line Road to the intersection with Highway 99; thence northwesterly along Highway 99 to the intersection with Clear Lake Road; thence west along Clear Lake Road to the intersection with the western boundary of Section 9, T17S, R4W; thence north to the intersection with Airport Road; thence east along Airport Road to the intersection with Highway 99; thence northwesterly along Highway 99 to the intersection East Enid Road; thence east along East Enid Road to the

intersection with Prairie Road; thence southerly along Prairie Road to the intersection with Irvington Road; thence east along Irvington Road to the intersection with the Southern Pacific Railroad Line; thence southeasterly along the Southern Pacific Railroad Line to the intersection with Irving Road; thence east along Irving Road to the intersection with Kalmia Road; thence northerly along Kalmia Road to the intersection with Hyacinth Road; thence northerly along Hyacinth Road to the intersection with Irvington Road; thence east along Irvington Road to the intersection with Spring Creek; thence northerly along Spring Creek to the intersection with River Road; thence northerly along River Road to the intersection with East Beacon Drive; thence following East Beacon Drive first east then south then east to the intersection with River Loop No.1; thence on a line due east to the Willamette River and the point of beginning.

(2) "Oakridge PM2.5 Nonattainment Area" means the area enclosed by the following: T21S, R2E, Sect 11 (NW Corner) east to T21S, R3E, Sect 11 (NE corner), south to T21S, R3E, Sect 23(SE Corner), west to T21S, R2E, Sect 23(SW corner) correctly back to T21S, R2E, Sect 11(NW corner).

(3) "Oakridge UGB" means the area enclosed by the following: Beginning at the northwest corner of Section 17, T21S, R3E and the city limits; thence south along the western boundary of Section 17, T21S, R3E along the city limits approximately 800 feet; thence southwesterly following the city limits approximately 750 feet; thence west along the city limits approximately 450 feet; thence northwesterly along the city limits approximately 450 feet; thence on a line south along the city limits approximately 250 feet; thence on a line east along the city limits approximately 100 feet; thence southwesterly along the city limits approximately 200 feet; thence on a line east along the city limits approximately 400 feet; thence on a line south along the city limits to the channel of the Willamette River Middle Fork; thence south-easterly up the Willamette River Middle Fork along the city limits approximately 7200 feet; thence exiting the Willamette River Middle Fork with the city limits in a northerly manner and forming a rough semicircle with a diameter of approximately one-half mile before rejoining the Willamette River Middle Fork; thence diverging from the city limits upon rejoining the Willamette River Middle Fork and moving southeasterly approximately 5600 feet up the Willamette River Middle Fork to a point on the river even with the point where Salmon Creek Road intersects with U.S. Highway 58; thence on a line east from the channel of the Willamette River Middle Fork across the intersection of Salmon Creek Road and U.S. Highway 58 to the intersection with the Southern Pacific Railroad Line; thence northerly along the Southern Pacific Railroad Line to the intersection with the northern boundary of Section 22, T21S, R3E; thence west along the northern boundary of Section 22, T21S, R3E to the intersection with Salmon Creek Road; thence on a line north to the intersection with the Southern Pacific Railroad Line; thence east along the Southern Pacific Railroad Line approximately 600 feet; thence on a line north to the intersection with High Prairie Road; thence on a line west approximately 400 feet; thence on a line north to the intersection with the northern boundary of Section 15, T21S, R3E; thence west along the northern boundary of Section 15, T21S, R3E to the intersection with the southeastern corner of Section 9, T21S, R3E; thence north along the eastern boundary of Section 9, T21S, R3E approximately 1300 feet; thence on a line west approximately 1100 feet; thence on a line south to the intersection with West Oak Road; thence northwesterly along West Oak Road approximately 2000 feet; thence on a line south to the intersection with the northern boundary line of the city limits; thence westerly and northwesterly approximately 8000 feet along the city limits to the point of beginning.

Section 29-0020 Designation of Air Quality Control Regions

Oregon's thirty-six counties are divided into five AQCRs. The AQCR boundaries follow county lines, and there are no counties that belong to more than one AQCR. The five AQCRs are as follows:

(1) Portland Interstate AQCR, containing ten counties:

- (a) Benton County;
- (b) Clackamas County;
- (c) Columbia County;
- (d) Lane County;
- (e) Linn County;
- (f) Marion County;
- (g) Multnomah County;
- (h) Polk County;
- (i) Washington County;
- (j) Yamhill County.

(2) Northwest Oregon AQCR, containing three counties:

- (a) Clatsop County;
- (b) Lincoln County;
- (c) Tillamook County.

(3) Southwest Oregon AQCR, containing five counties:

- (a) Coos County;
- (b) Curry County;
- (c) Douglas County;
- (d) Jackson County;
- (e) Josephine County.

(4) Central Oregon AQCR, containing eight counties:

- (a) Crook County;

- (b) Deschutes County;
- (c) Hood River County;
- (d) Jefferson County;
- (e) Klamath County;
- (f) Lake County;
- (g) Sherman County;
- (h) Wasco County.

(5) Eastern Oregon AQCR, containing ten counties:

- (a) Baker County;
- (b) Gilliam County;
- (c) Grant County;
- (d) Harney County;
- (e) Malheur County;
- (f) Morrow County;
- (g) Umatilla County;
- (h) Union County;
- (i) Wallowa County;
- (j) Wheeler County.

Section 29-0030 Designation of Nonattainment Areas

The following areas are designated as Nonattainment Areas:

(1) PM10 Nonattainment Areas:

- (a) The Oakridge Nonattainment Area for PM10 is the Oakridge UGB as defined in 29-0010.

(2) PM2.5 Nonattainment Areas:

- (a) The Oakridge Nonattainment Area for PM2.5 is defined in 29-0010.

Section 29-0040 Designation of Maintenance Areas

The following areas are designated as Maintenance Areas:

(1) Carbon Monoxide Maintenance Areas:

- (a) The Eugene Maintenance Area for carbon monoxide is the Eugene-Springfield UGB as defined in 29-0010.

(2) PM10 Maintenance Areas:

- (a) The Eugene-Springfield Maintenance Area for PM10 is the Eugene-Springfield UGB as defined in 29-0010.

Section 29-0050 Designation of Prevention of Significant Deterioration Areas

(1) All of the following areas which were in existence on August 7, 1977, and for which the 1990 Clean Air Act Amendments clarified, shall be Class I Areas and may not be redesignated:

- (a) Mt. Hood Wilderness, as established by Public Law 88-577;
- (b) Eagle Cap Wilderness, as established by Public Law 88-577;
- (c) Hells Canyon Wilderness, as established by Public Law 94-199;
- (d) Mt. Jefferson Wilderness, as established by Public Law 90-548;
- (e) Mt. Washington Wilderness, as established by Public Law 88-577;
- (f) Three Sisters Wilderness, as established by Public Law 88-577;
- (g) Strawberry Mountain Wilderness, as established by Public Law 88-577;
- (h) Diamond Peak Wilderness, as established by Public Law 88-577;
- (i) Crater Lake National Park, as established by Public Law 32-202;
- (j) Kalmiopsis Wilderness, as established by Public Law 88-577;
- (k) Mountain Lake Wilderness, as established by Public Law 88-577;
- (l) Gearhart Mountain Wilderness, as established by Public Law 88-577.

(2) All other areas, in Oregon are initially designated Class II, but may be redesignated as provided in 29-0060.

(3) The following areas may be redesignated only as Class I or II:

- (a) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and
 - (b) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.
- (4) The extent of the areas referred to in section (1) and (3) shall conform to any changes in the boundaries of such areas which occurred between August 7, 1977, and April 15, 2015.

Section 29-0060 Redesignation of Prevention of Significant Deterioration Areas

- (1) (a) All areas in Oregon, except as otherwise provided under 29-0050, are designated Class II as of December 5, 1974;
- (b) Redesignation, except as otherwise precluded by 29-0050, may be proposed by LRAPA, as provided below, subject to approval by the EPA Administrator as a revision to the SIP.
- (2) LRAPA may submit to the EPA Administrator a proposal to redesignate areas of the state Class I or II provided that:
- (a) At least one public hearing has been held in accordance with procedures established in the SIP;
 - (b) Other states, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;
 - (c) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;
 - (d) Prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, LRAPA has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity, not in excess of 60 days to confer with LRAPA respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, LRAPA must have published a list of any inconsistency between such redesignation and such comments and recommendations together with the reasons for making such redesignation against the recommendation of the Federal Land Manager; and
 - (e) LRAPA has proposed the redesignation after consultation with the elected leadership of local general purpose governments in the area covered by the proposed redesignation.
- (3) Any area other than an area to which 29-0050 refers may be redesignated as Class III if:

- (a) The redesignation would meet the requirements of subsection (2);
- (b) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session, unless state law provides that the redesignation must be specifically approved by state legislation, and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;
- (c) The redesignation would not cause, or contribute to, a concentration of any regulated pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any ambient air quality standard; and
- (d) Any permit application for any major stationary source or major modification, subject to review under subsection (1), which could receive a permit under this section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

(4) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body.

(5) The EPA Administrator may disapprove, within 90 days of submission, a proposed redesignation of any area only if the EPA Administrator finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this paragraph or is inconsistent with 29-0050. If any such disapproval occurs, the classification of the area must be that which was in effect prior to the redesignation which was disapproved.

(6) If the EPA Administrator disapproves any proposed redesignation, LRAPA, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the EPA Administrator.

Section 29-0070 Special Control Areas

The following areas are designated as Special Control Areas:

- (1) Lane County;
- (2) Within incorporated cities having a population of 4,000 or more, and within three miles of the corporate limits of any such city.

Section 29-0080 Motor Vehicle Inspection Boundary Designations

In addition to the area specified in ORS 815.300, pursuant to ORS 468A.390, the following geographical areas are designated as areas within which motor vehicles are subject to the requirement under ORS 815.300 to have a Certificate of Compliance issued pursuant to ORS 468A.380 to be registered or have the registration of the vehicle renewed.

(1) There are currently no geographic areas in Lane County subject to motor vehicle inspection programs.

Section 29-0090 Oxygenated Gasoline Control Areas

There currently are no oxygenated gasoline control areas in Lane County.

Designation of Areas

Section 29-0300 Designation of Sustainment Areas

(1) The Board may designate sustainment areas provided that LRAPA submits a request for designation that includes the following information:

- (a) Monitoring data showing that an area is exceeding or has the potential to exceed an ambient air quality standard;
- (b) A description of the affected area based on the monitoring data;
- (c) A discussion and identification of the priority sources contributing to the exceedance or potential exceedance of the ambient air quality standard; and
- (d) A discussion of the reasons for the proposed designation.

(2) Designation of sustainment areas:

- (a) Reserved
- (b) Reserved

(3) An area designated as a sustainment area under subsection (2) will automatically be reclassified immediately upon the EPA officially designating the area as a nonattainment area.

(4) The Board may rescind the designation based on a request by LRAPA. LRAPA will consider the following information for rescinding the designation:

- (a) Whether at least three consecutive years of monitoring data shows the area is meeting the ambient air quality standard; and
- (b) A request by a local government.

Section 29-0310 Designation of Reattainment Areas

(1) The Board may designate reattainment areas provided that LRAPA submits a request for designation that includes the following information:

- (a) At least three consecutive years of monitoring data showing that an area that is currently designated by EPA as nonattainment is attaining an ambient air quality standard; and
- (b) A discussion of the reasons for the proposed designation.

(2) Designation of reattainment areas:

(a) The Oakridge PM2.5 Non-attainment area as defined in 29-0010(2) is designated as a reattainment area for PM2.5.

(b) Reserved.

(3) An area designated as a reattainment area under subsection (2) will automatically be reclassified immediately upon:

(a) The Board designating the area as a maintenance area and EPA officially designating the area as an attainment area; or

(b) The Board rescinding the designation based on a request by LRAPA. LRAPA will consider the following information for rescinding the designation:

(A) Monitoring data that shows the area is not meeting the ambient air quality standard; and

(B) A request by a local government.

Section 29-0320 Priority Sources

For the purposes of LRAPA title 38, priority sources are identified as follows:

(1) In the Oakridge reattainment area, uncertified residential wood fuel-fired devices. The offset values for replacement of uncertified residential wood fuel-fired devices are specified in OAR 340-240-0560.

(2) In any other area, LRAPA may identify priority sources during a specific permit action based on the sources addressed in the emission reduction strategies that were included in the attainment or maintenance plans for the area. The offset value for priority sources identified under this section must be determined by LRAPA. The offset values for replacement of uncertified residential wood fuel-fired devices in rules LRAPA develops for areas with unique air quality needs may only be used if LRAPA determines that the values reasonably apply to the geographical area in question.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 30

Incinerator Regulations

Section 30-005 Purpose and Applicability

The purpose of these rules is to establish state-of-the-art emission standards, design requirements, and performance standards for all solid, infectious waste and crematory incinerators, in order to minimize air contaminant emissions and provide adequate protection of public health. The rules apply to all existing solid and infectious waste and crematory incinerators and to all that will be built, modified, or installed within Lane County, Oregon. These rules shall not apply to municipal waste combustors.

Section 30-010 Definitions

The definitions in title 12 and title 46 and this section apply to this title. If the same term is defined in this section and title 12 or title 46, the definition in this section applies to this title.

- "Acid Gases" means any exhaust gas which includes hydrogen chloride and sulfur dioxide.
- "Administrator" means the Administrator of the U.S. Environmental Protection Agency or his/her authorized representative or Administrator of a State Air Pollution Control Agency.
- "CFR" means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, 2016 edition.
- "Continuous Emissions Monitoring (CEM)" means a monitoring system for continuously measuring the emissions of a pollutant from an affected incinerator. Continuous monitoring equipment and operation shall be certified in accordance with EPA performance specifications and quality assurance procedures outlined in 40 CFR 60, Appendices B and F, and the DEQ CEM Manual.
- "Crematory Incinerator" means an incinerator used solely for the cremation of non-pathological human, non-pathological animal remains, and appropriate containers.
- "Cultures and stocks" includes etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals, and serums and discarded live and attenuated vaccines. "Cultures" does not include throat and urine cultures (see also "infectious waste").
- "Dioxins and Furans" means total tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans.
- "Dry Standard Cubic Foot" means the amount of gas, free of uncombined water, that would occupy a volume of 1 cubic foot at standard conditions. When applied to combustion flue

gases from waste or refuse burning, "Standard Cubic Foot (SCF)" means adjustment of gas volume to that which would result at a concentration of 7% oxygen (dry basis) or 50 percent excess air.

- "Incineration Operation" means any operation in which combustion is carried on in an incinerator, for the principal purpose or with the principal result, of oxidizing wastes to reduce their bulk and/or facilitate disposal.
- "Incinerator" means a combustion device specifically for destruction, by high temperature burning, of solid, semi-solid, liquid, or gaseous combustible wastes. This does not include devices such as open or screened barrels, drums, or process boilers.
- "Infectious Waste" means waste which contains or may contain any disease-producing microorganism or material including, but not limited to, biological waste, cultures and stocks, pathological waste, and sharps (see individual definitions for these terms).
- "Infectious Waste Incinerator" means an incinerator which is operated or utilized for the disposal or treatment of infectious waste, including combustion for the recovery of heat.
- "Parts Per Million (ppm)" means parts of a contaminant per million parts of gas by volume on a dry-gas basis (1 ppm equals 0.0001% by volume).
- "Pathological waste" includes biopsy materials and all human tissues; anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures; and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. "Pathological wastes" does not include teeth, or formaldehyde or other preservative agents (see also "infectious waste").
- "Primary Combustion Chamber" means the discrete equipment, chamber or space in which drying of the waste, pyrolysis, and essentially the burning of the fixed carbon in the waste occurs.
- "Pyrolysis" means the endothermic gasification of waste material using external energy.
- "Refuse" means unwanted matter.
- "Refuse Burning Equipment" means a device designed to reduce the volume of solid, liquid, or gaseous refuse by combustion.
- "Secondary (or Final) Combustion Chamber" means the discrete equipment, chamber, or space, excluding the stack, in which the products of pyrolysis are combusted in the presence of excess air, such that essentially all carbon is burned to carbon dioxide.
- "Sharps" includes needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling, and syringes that have been removed from their original sterile containers (see also "infectious waste").

- "Solid Waste" means refuse, more than 50% of which is waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials, and noncombustible materials such as metal, glass, and rock.
- "Solid Waste Incinerator" means an incinerator which is operated or utilized for the disposal or treatment of solid waste, including combustion for the recovery of heat.
- "Transmissometer" means a device that measures opacity and conforms to EPA specification Number 1 in Title 40 CFR, Part 60, Appendix B.

Section 30-015 Best Available Control Technology for Solid and Infectious Waste Incinerators

- (1) Notwithstanding the specific emission limits set forth in Section 30-020, in order to maintain overall air quality at the highest possible levels, each solid and infectious waste incinerator is required to use best available control technology (BACT). In no event shall the application of BACT result in emissions of any air contaminant which would exceed the emission limits set forth in these rules.
- (2) All installed equipment shall be operated and maintained in such a manner that emissions of air contaminants are kept at the lowest possible level.

Section 30-020 Emission Limitations for Solid and Infectious Waste Incinerators

No person shall cause, suffer, allow, or permit the operation of any solid or infectious waste incinerator in a manner which violates the following emission limits and requirements:

- (1) Particulate Matter Emissions (PM)
 - (a) For solid and infectious waste incinerators constructed or modified on or after March 13, 1990, emissions from each stack shall not exceed 0.015 grains per dry standard cubic foot of exhaust gases corrected to seven (7) percent O₂ at standard conditions.
 - (b) For solid and infectious waste incinerators constructed or modified before March 13, 1990, emissions from each stack shall not exceed 0.030 grains per dry standard cubic foot of exhaust gases corrected to seven (7) percent O₂ at standard conditions.
- (2) Hydrogen Chloride (HCl)
 - (a) For existing and new solid and infectious waste incinerators, emissions of hydrogen chloride from each stack shall not exceed 50 ppm as an average during any sixty (60)-minute period, corrected to 7% O₂ (dry basis); or
 - (b) Shall be reduced by at least ninety (90)% by weight from their potential HCl emissions rate on an hourly basis.
- (3) Sulfur Dioxide (SO₂)

- (a) For existing and new solid and infectious waste incinerators, emissions of sulfur dioxide from each stack shall not exceed 50 ppm as a running three (3)-hour average, corrected to 7% O₂, (dry basis); or
- (b) Shall be reduced by at least 70% by weight from their potential SO₂ emission rate on a three (3)-hour basis.
- (4) Carbon Monoxide (CO). For existing and new solid and infectious waste incinerators, emissions of carbon monoxide from each stack shall not exceed 100 ppm as a running eight (8)-hour average, corrected to 7% O₂ (dry basis).
- (5) Nitrogen Oxide (NO_x). For solid and infectious waste incinerators constructed or modified on or after March 13, 1990 with the potential to process 250 tons/day or more of wastes, emissions of nitrogen oxide from each stack shall not exceed 200 ppm as a running 24-hour average, corrected to 7% O₂ (dry basis).
- (6) Opacity. Opacity, as measured visually by an applicable EPA Method or by a transmissometer, shall not exceed 10% for a period aggregating more than six (6) minutes in any sixty (60)-minute period.
- (7) Fugitive Emissions. All solid and infectious waste incinerators shall be operated in a manner which prevents or minimizes fugitive emissions, including but not limited to the paving of all normally traveled roadways within the plant boundary and enclosing of all material transfer points.
- (8) Dioxin/furans. For solid and infectious waste incinerators with a waste charging rate of 250 tons/day or greater, emissions from each stack shall not exceed 30 nanograms of dioxin/furans per dry standard cubic foot.
- (9) Other Wastes. No solid or infectious waste incinerator subject to these rules shall burn radioactive or hazardous waste, or any other waste not specifically authorized in LRAPA's Air Contaminant Discharge Permit.
- (10) Other contaminants. For any incinerator subject to these rules, in the absence of an air-contaminant-specific emission limit or ambient air quality standard, LRAPA may establish, by permit, emission limits for any other air contaminants to protect human health and the environment.

Section 30-025 Design and Operation for Solid and Infectious Waste Incinerators

- (1) Each solid or infectious waste incinerator shall have at least a primary and secondary combustion chamber.
- (2) Temperature and residence time. Each solid or infectious waste incinerator shall be designed and operated to maintain temperatures of at least 1400° F in the primary chamber. Combustion gases in the secondary chamber shall be maintained at a minimum temperature of 1800° F for at least one (1) second residence time.

- (3) **Auxiliary Burners.** Each solid or infectious waste incinerator shall be designed and operated with automatically controlled auxiliary burners capable of maintaining the combustion chamber temperatures specified in section 2 of this rule, and shall have sufficient auxiliary fuel capacity to maintain said temperatures.
- (4) **Interlocks.** Each solid or infectious waste incinerator shall be designed and operated with an interlock system which:
 - (a) Prevents charging until the final combustion chamber reaches 1800° F;
 - (b) For batch-fed solid or infectious waste incinerators, prevents recharging until each combustion cycle is complete;
 - (c) Ceases charging if the secondary chamber temperature falls below 1800° F for any continuous fifteen (15)-minute period; and
 - (d) Ceases charging if carbon monoxide levels exceed 150 ppm (dry basis), corrected to 7% O₂ over a continuous fifteen (15)-minute period.
- (5) **Air Locks.** Each mechanically fed solid or infectious waste incinerator shall be designed and operated with an air lock control system to prevent opening the incinerator to the room environment. The volume of the loading system must be designed so as to prevent overcharging, to assure complete combustion of the waste.
- (6) **Combustion Efficiency.** Except during periods of startup and shutdown, each solid or infectious waste incinerator shall achieve a combustion efficiency of 99.9% based on a running eight (8)-hour average, computed as follows:

$$CE = \frac{CO_2}{CO_2 + CO} \times 100$$

CO = Carbon monoxide in the exhaust gas, parts per million by volume (dry) at standard conditions

CO₂ = Carbon dioxide in the exhaust gas, parts per million by volume (dry) at standard conditions

- (7) **Stack Height.** Each solid or infectious waste incinerator stack shall be designed in accordance with Good Engineering Practice (GEP) as defined in Title 40 CFR, Parts 51.100(ii) and 51.18, in order to avoid the flow of stack pollutants into any building ventilation intake plenum.
- (8) **Operator Training and Certification.** Each solid or infectious waste incinerator shall be attended at all times during operation by one or more individuals who have received training necessary for proper operation. A description of the training program shall be submitted to the LRAPA for approval. A satisfactory training program shall consist of any of the following:

- (a) Certification by the American Society of Mechanical Engineers (ASME) for solid waste incinerator operation; or
 - (b) For infectious waste incineration, successful completion of EPA's Medical Waste Incinerator Operating training course; or
 - (c) Other certification or training by a qualified organization as to proper operating practices and procedures, which has been pre-approved by LRAPA prior to enrollment. In addition, the owner or operator of a solid or infectious waste incinerator facility shall develop and submit a manual for proper operation and maintenance, to be reviewed with employees responsible for incinerator operation on an annual basis.
 - (d) Copies of the written certificate of training of the operator shall be kept on site at all times, available LRAPA review.
- (9) Odors. In cases where solid or infectious waste incinerator operation causes odors which interfere with the use and enjoyment of property, LRAPA may require, by permit, additional practices and procedures to prevent or eliminate those odors, in accordance with Title 49.

Section 30-030 Continuous Emission Monitoring for Solid and Infectious Waste Incinerators

- (1) Each solid waste incinerator shall be equipped with continuous monitoring for the following:
- (a) Sulfur dioxide;
 - (b) Carbon monoxide;
 - (c) Opacity;
 - (d) Primary combustion chamber temperature;
 - (e) Final combustion chamber temperature;
 - (f) Flue gas outlet temperature;
 - (g) Oxygen;
 - (h) Nitrogen oxide--new incinerators with a potential waste feed rate of 250 tons/day or more; and
 - (i) HCl--for incinerators with a potential waste feed rate of 250 tons per day or more.
- (2) Each infectious waste incinerator shall be equipped with continuous monitoring for the following:
- (a) Carbon monoxide;
 - (b) Opacity;
 - (c) Primary combustion chamber temperature;
 - (d) Final combustion chamber temperature; and
 - (e) HCl.
- (3) LRAPA may, at any time following the effective date of these rules, require the installation and operation of any other continuous emission monitors which LRAPA determines are necessary in order to demonstrate compliance with emission limits set forth in these regulations.

- (4) The monitors specified above shall comply with EPA performance specifications in Title 40, CFR, Part 60, and the Department's CEM Manual. All monitoring equipment shall be located, operated and maintained so as to accurately monitor emission levels, in order to demonstrate compliance with LRAPA Title 30.

Section 30-035 Reporting and Testing for Solid and Infectious Waste Incinerators

(1) Reporting

- (a) Compliance test results shall be reported to LRAPA within thirty (30) days of completion of the test.
- (b) All records associated with continuous monitoring data including, but not limited to, original data sheets, charts, calculations, calibration data, production records and final reports shall be maintained for a continuous period of at least two (2) years and shall be furnished to LRAPA upon request.

(2) Source Testing

- (a) Each solid or infectious waste incinerator must be tested to demonstrate compliance with the standards in these rules.
 - (b) Compliance testing shall be conducted at the maximum design rate using waste that is representative of normal operation. If requested by the owner/ operator, compliance testing may be performed at a lower rate; however, permit limits will be established based on the lower rate of operation.
 - (c) Unless otherwise specified by LRAPA, each solid or infectious waste incinerator shall be tested at start-up for particulate matter, hydrogen chloride, sulfur dioxide, and carbon monoxide emissions. Solid and infectious waste incinerators with potential waste feed rates of 250 tons/day or more shall be tested for dioxin/furans and NO_x at startup.
- (3) Other air contaminant compliance testing. LRAPA may, at any time after the effective date of this rule, conduct or require source testing and require access to information specific to the control, recovery, or release of other air contaminants.

Section 30-040 Compliance for Solid and Infectious Waste Incinerators

- (1) All solid and infectious waste incinerators constructed or modified before March 13, 1990 must demonstrate compliance with the applicable provisions of these rules one year after the effective date of this regulation. Subject to approval of LRAPA, existing data such as that collected in accordance with the requirements of an Air Contaminant Discharge Permit may be used to demonstrate compliance.
- (2) Until compliance is demonstrated, existing solid and infectious waste incinerators shall continue to be subject to all applicable permit conditions.

- (3) Solid and infectious waste incinerators constructed or modified on or after March 13, 1990 must demonstrate compliance with the applicable provisions of these rules in accordance with a schedule established by LRAPA before commencing regular operation.
- (4) Compliance with these rules does not relieve the owner or operator of the solid or infectious waste incinerator from the responsibility to comply with requirements of the Department's Solid and Hazardous Waste rules (Oregon Administrative Rules, Chapter 340, Division 93) regarding the disposal of ash generated from solid and infectious waste incinerators.

Section 30-045 Emission Limitations of Crematory Incinerators

- (1) No person shall cause to be emitted particulate matter from any crematory incinerator in excess of 0.080 grains per dry standard cubic foot of exhaust gases corrected to seven (7) percent O₂ at standard conditions.
- (2) Opacity. No visible emissions shall be present except for a period aggregating no more than three (3) minutes in any sixty (60)-minute period, as measured by EPA Method 9. At no time shall visible emissions exceed an opacity of 10%.
- (3) Odors. In cases where crematory incinerator operation cause odors which interfere with the use and enjoyment of property, LRAPA may require by permit the use of good practices and procedures to prevent or eliminate those odors.

Section 30-050 Design and Operation of Crematory Incinerators

- (1) Temperature and residence time. During the course of cremation, the temperature in the final combustion chamber shall be 1800° F for incinerators installed on or after March 13, 1993, and 1600° F for crematory incinerators installed on or before March 12, 1993, with a residence time of at least 0.5 second. The temperature in the final chamber must be 1400°F prior to firing material in the primary combustion chamber. At no time while firing waste shall the temperature in the final chamber fall below 1400° F for incinerators installed on or after March 13, 1993, or 1200° F for incinerators installed on or after March 13, 1993.
- (2) Operator training and certification. Each crematory incinerator shall be operated at all times under the direction of individuals who have received training necessary for proper operation. A description of the training program shall be submitted to LRAPA approval. Copies of the training certificates of the operators shall be maintained on site at all times and available to LRAPA for review.
- (3) As defined in Title 12 of these rules, crematory incinerators may only be used for incineration of human and animal bodies and appropriate containers. No other material, including infectious waste as defined by 30-010.10 of these rules, may be incinerated unless specifically authorized in LRAPA's Air Contaminant Discharge Permit. On a case-by-case basis, LRAPA may allow the cremation of human anatomical parts or fetal remains, upon request.

Section 30-055 Monitoring and Reporting for Crematory Incinerators

- (1) All crematory incinerators shall operate and maintain continuous monitoring for final combustion chamber exit temperature. Additional monitoring and reporting may be required by permit.
- (2) All records associated with continuous monitoring data including, but not limited to, original data sheets, charts, calculations, calibration data, production records and final reports shall be maintained for a continuous period of at least two (2) years and shall be furnished to LRAPA upon request.
- (3) All crematory incinerators must conduct source testing to demonstrate compliance with these rules in accordance with a schedule specified by LRAPA. The test results shall be submitted to LRAPA no later than thirty (30) days after completion of the test.

Section 30-060 Compliance of Crematory Incinerators

- (1) A crematory incinerator installed on or after March 13, 1993, must demonstrate within 180 days of startup compliance with Section 30-045(1) by:
 - (a) Conducting a source test for particulate matter emissions in accordance with Sections 35-0120 through 35-0140; or
 - (b) Submitting the results of testing performed on a crematory incinerator that LRAPA agrees is comparable to the incinerator in question.

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, 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;

- (s) If applicable, a statement that an enhanced NSR process, under LRAPA title 38, including the external review procedures required under OAR 340-218-0210 and 340-218-0230, is being used to allow for subsequent incorporation of the operating approval into an LRAPA Title V Operating Permit as an administrative amendment; and
 - (t) For Toxic Air Contaminant Permit Addenda and ACDPs that include conditions consistent with OAR 340, division 245, a list of estimated toxic air contaminant emissions and, if applicable, a summary of the results of any risk assessment.
- (2) General Permit Actions. The following information is required for General ACDP and General LRAPA Title V Operating Permit actions:
- (a) The name and address of potential or actual facilities assigned to the General Permit;
 - (b) Type of facility, including a description of the facility's process subject to the permit;
 - (c) Description of the air contaminant emissions including, the type of pollutants, quantity of emissions, and any decreases or increases since the last permit action for the potential or actual facilities assigned to the permit;
 - (d) Location and description of documents relied upon in preparing the draft permit;
 - (e) Other permits required by LRAPA;
 - (f) Date of previous permit actions;
 - (g) Opportunity for public comment and a brief description of the comment procedures, whether in writing or in person, including the procedures for requesting a hearing (unless a hearing has already been scheduled or is not an option for the Public Notice category)
 - (h) Compliance, enforcement, and complaint history along with resolution of the same;
 - (i) A summary of the discretionary decisions made by LRAPA in drafting the permit;

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

Section 31-0050 Public Notice Procedures

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

Section 31-0060 Persons Required to Be Notified

- (1) All notices. For all types of public notice, LRAPA will provide notice to the following persons:
 - (a) The applicant;
 - (b) Persons on a mailing list maintained by LRAPA, including those who request in writing to be notified of air quality permit actions;

- (c) Local news media; and
 - (d) Interested state and federal agencies.
- (2) General ACDP or General LRAPA Title V Operating Permit actions. In addition to subsection (1), LRAPA will notify the following:
 - (a) Potential applicants; and
 - (b) All existing permit holders in the source category in the case where a General Permit is being issued to a category of sources already permitted.
- (3) LRAPA Title V Operating Permit actions. LRAPA will provide notice to affected states and the EPA in addition to the persons identified in subsections (1) and (2).
- (4) NSR actions. For NSR actions excluding Type B State NSR actions (title 38), LRAPA will provide notice to the following officials and agencies having jurisdiction over the location where the proposed construction would occur in addition to the persons identified in subsection (1):
 - (a) The chief executives of the city and county where the source or modification would be located;
 - (b) Any comprehensive regional land use planning agency;
 - (c) Any state, federal land manager, or Indian governing body whose land may be affected by emissions from the source or modification; and
 - (d) The EPA.

Section 31-0070 Hearing Procedures

When a public hearing is required or requested, LRAPA will provide the hearing at a reasonable place and time before taking the final permit action.

- (1) Notice of the hearing may be given either in the notice accompanying the proposed or draft permit action or in such other manner as is reasonably calculated to inform interested persons. LRAPA will provide notice of the hearing at least 30 days before the hearing.

- (2) Presiding Officer. A Presiding Officer will preside over the public hearing and ensure that proper procedures are followed to allow for the public to comment on the proposed permit action.
 - (a) Before accepting oral or written comments by members of the public, the Presiding Officer or LRAPA representative will present a summary of the proposed permit action and the LRAPA's preliminary decision. During this period, there may be an opportunity to ask questions about the proposed or draft permit action.
 - (b) The Presiding Office will then provide an opportunity for interested persons to submit oral or written comments regarding the proposed permit action. Interested persons are encouraged to submit written comments because time constraints may be imposed, depending on the level of participation. While public comment is being accepted, discussion of the proposed or draft permit action will not be allowed.
 - (c) After the public hearing, the Presiding Officer will prepare a report of the hearing that includes the date and time of the hearing, the permit action, names of persons attending the hearing, written comments, and a summary of the oral comments. The Presiding Officer's report will be entered into the permit action record.

Section 31-0080 Issuance or Denial of a Permit

- (1) Following the public comment period and public hearing, if one is held, LRAPA will take action upon the matter as expeditiously as possible. Before taking such action, LRAPA will prepare a written response to separately address each substantial, distinct issue raised during the comment period and during the hearing record.
- (2) LRAPA will make a record of the public comments, including the names and affiliation of persons who commented, and the issues raised during the public participation process. The public comment records may be in summary form rather than a verbatim transcript. The public comment records are available to the public.
- (3) The applicant may submit a written response to any comments submitted by the public within 10 working days after the LRAPA provides the applicant with a copy of the written comments received by LRAPA. LRAPA will consider the applicant's response in making a final decision.

- (4) After considering the comments, LRAPA may adopt or modify the provisions requested in the permit application.
- (5) Issuance of permit: LRAPA will promptly notify the applicant in writing of the final action as provided in 14-140 and will include a copy of the permit. If the permit conditions are different from those contained in the proposed permit, the notification will identify the affected conditions and include the reasons for the changes.
- (6) Denial of a permit: LRAPA will promptly notify the applicant in writing of the final action as provided in 14-140. If LRAPA denies a permit application, the notification will include the reasons for the denial.
- (7) LRAPA's decision under subsections (4) and (5) is effective 20 days from the date of service of the notice unless, within that time, LRAPA receives a request for a hearing from the applicant. The request for a hearing must be in writing and state the grounds for the request. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413 through 183.470 and LRAPA title 31.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 32

EMISSION STANDARDS

Section 32-001 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.

- (1) "Distillate fuel oil" means any oil meeting the specifications of ASTM Grade 1 or 2 fuel oils;
- (2) "Residual fuel oil" means any oil meeting the specifications of ASTM Grade 4, 5, or 6 fuel oils.
- (3) "Special control area" means an area designated in title 29 or OAR 340-204-0070.

Section 32-005 Highest and Best Practicable Treatment and Control Required

- (1) As specified in 32-006 through 32-009 and subsections (2) through (6), the highest and best practicable treatment and control of air contaminant emissions shall in every case be provided so as to maintain overall air quality at the highest possible levels, and to maintain contaminant concentrations, visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. In the case of sources installed, constructed, or modified after June 1, 1970, particularly those located in areas with existing high-level air quality degradation, the degree of treatment and control provided shall be such that further degradation of existing air quality is minimized to the greatest extent possible.
- (2) A source is in compliance with subsection (1) if the source is in compliance with all other applicable emission standards and requirements contained in LRAPA titles 32 through 51 and OAR 340 division 218.
- (3) LRAPA may adopt additional rules as necessary to ensure that the highest and best practicable treatment and control is provided as specified in subsection (1). Such rules may include, but are not limited to, the following requirements:
 - (a) Applicable to a source category, regulated pollutant or geographic area of Lane County;
 - (b) Necessary to protect public health and welfare for air contaminants that are not otherwise regulated by LRAPA; or
 - (c) Necessary to address the cumulative impact of sources on air quality.
- (4) LRAPA encourages the owner or operator of a source to further reduce emissions from the source beyond applicable control requirements where feasible.

- (5) Nothing in 32-005 through 32-009 revokes or modifies any existing permit term or condition unless or until LRAPA revokes or modifies the term or condition by a permit revision.
- (6) Compliance with a specific emission standard in these rules does not preclude the required compliance with any other applicable emission standard.

Section 32-006 Pollution Prevention

The owner or operator of a source is encouraged to take into account the overall impact of the control methods selected, considering risks to all environmental media and risks from all affected products and processes. The owner or operator of a source is encouraged, but not required, to utilize the following hierarchy in controlling air contaminant emissions:

- (1) Modify the process, raw materials or product to reduce the toxicity and/or quantity of air contaminants generated;
- (2) Capture and reuse air contaminants;
- (3) Treat to reduce the toxicity and/or quantity of air contaminants released; or
- (4) Otherwise control emissions of air contaminants.

Section 32-007 Operating and Maintenance Requirements

- (1) Operational, Maintenance and Work Practice Requirements:
 - (a) Where LRAPA has determined that specific operational, maintenance, or work practice requirements are appropriate to ensure that the owner or operator of a source is operating and maintaining air pollution control equipment and emission reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions, LRAPA shall establish such requirements by permit condition or Notice of Construction (NOC) approval.
 - (b) Operational, maintenance and work practice requirements include, but are not limited to:
 - (A) Flow rates, temperatures, pressure drop, ammonia slip, and other physical or chemical parameters related to the operation of air pollution control devices and emission reduction processes;
 - (B) Monitoring, recordkeeping, testing and sampling requirements and schedules;
 - (C) Maintenance requirements and schedules; or
 - (D) Requirements that components of air pollution control devices be functioning properly.
- (2) Emission Action Levels

- (a) Where LRAPA has determined that specific operational, maintenance, or work practice requirements considered or required under subsection (1) are not sufficient to ensure that the owner or operator of a source is operating and maintaining air pollution control devices and emission reduction processes at the highest reasonable efficiency and effectiveness, LRAPA may establish, by permit or Notice of Construction (NOC) approval, specific emission action levels in addition to applicable emission standards. An emission action level shall be established at a level which ensures that air pollution control devices or an emission reduction process is operated at the highest reasonable efficiency and effectiveness to minimize emissions.
 - (b) If emissions from a source equal or exceed the applicable emission action level, the owner or operator of the source shall:
 - (A) Take corrective action as expeditiously as practicable to reduce emissions to below the emission action level;
 - (B) Maintain records at the plant site for five (5) years which document the exceedance, the cause of the exceedance, and the corrective action taken;
 - (C) Make such records available for inspection by LRAPA during normal business hours; and
 - (D) Submit such records to LRAPA upon request.
 - (c) LRAPA shall revise an emission action level if it finds that the level does not reflect the highest reasonable efficiency and effectiveness of air pollution control devices and emission reduction processes.
 - (d) An exceedance of an emission action level which is more stringent than an applicable emission standard shall not be a violation of the emission standard.
- (3) In determining the highest reasonable efficiency and effectiveness for purposes of this rule, LRAPA shall take into consideration operational variability and the capability of air pollution control devices and emission reduction processes. If the performance of air pollution control devices and emission reduction processes during start-up or shut-down differs from the performance under normal operating conditions, LRAPA shall determine the highest reasonable efficiency and effectiveness separately for these start-up and shut-down operating modes.

Section 32-008 Typically Achievable Control Technology (TACT)

For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed. TACT determinations will be based on information known to LRAPA while considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control devices. LRAPA may consider emission control technologies typically applied to other types of emissions units where such technologies

could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.

- (1) Existing Sources. An existing emissions unit must meet TACT for existing sources if:
 - (a) The emissions unit is not already subject to emissions standards for the regulated pollutant under title 30, title 32, title 33, title 38, title 39 or title 46 at the time TACT is required;
 - (b) The source is required to have a permit;
 - (c) The emissions unit has emissions of criteria pollutants equal to or greater than five (5) tons per year of particulate or ten (10) tons per year of any gaseous pollutant; and
 - (d) LRAPA determines that air pollution control devices and emission reduction processes in use for the emissions unit do not represent TACT and that further emission control is necessary to address documented nuisance conditions, address an increase in emissions, ensure that the source is in compliance with other applicable requirements, or to protect public health or welfare or the environment.
- (2) New and Modified Sources. A new or modified emissions unit must meet TACT for new or modified sources if:
 - (a) The new or modified emissions unit is not subject to Major NSR in title 38, a Type A State NSR action under LRAPA title 38, an applicable Standard of Performance for New Stationary Sources in title 46, or any other standard applicable only to new or modified sources in title 32, title 33, or title 39 for the regulated pollutant emitted;
 - (b) The source is required to have a permit;
 - (c) The emissions unit:
 - (A) If new, would have emissions of any criteria pollutant equal to or greater than 1 ton per year, or of PM₁₀ equal to or greater than 500 pounds per year in a PM₁₀ nonattainment area; or
 - (B) If modified, would have an increase in emissions from the permitted level for the emissions unit of any criteria pollutant equal to or greater than 1 ton per year, or of PM₁₀ equal to or greater than 500 pounds per year in a PM₁₀ nonattainment area; and
 - (d) LRAPA determines that the proposed air pollution control devices and emission reduction processes do not represent TACT.
- (3) Before making a TACT determination, LRAPA will notify the owner or operator of a source of its intent to make such determination utilizing information known to LRAPA. The owner or operator of the source may supply LRAPA with additional information by a reasonable date set by LRAPA.

- (4) The owner or operator of a source subject to TACT shall submit, by a reasonable date established by LRAPA, compliance plans and specifications for LRAPA's approval. The owner or operator of the source must demonstrate compliance in accordance with a method and compliance schedule approved by LRAPA.

Section 32-009 Additional Control Requirements for Stationary Sources of Air Contaminants

LRAPA shall establish control requirements in addition to otherwise applicable requirements by permit, if necessary, as specified in subsections (1) through (5):

- (1) Requirements shall be established to prevent violation of an ambient air quality standard caused or projected to be caused substantially by emissions from the source as determined by modeling, monitoring or a combination thereof. For existing sources, the violation of an ambient air quality standard shall be confirmed by monitoring conducted by LRAPA.
- (2) Requirements shall be established to prevent significant impairment of visibility in Class I areas caused or projected to be caused substantially by a source as determined by modeling, monitoring or a combination thereof. For existing sources, the visibility impairment shall be confirmed by monitoring conducted by LRAPA.
- (3) A requirement applicable to major source shall be established if it has been adopted by EPA but has not otherwise been adopted by the EQC or the Board.
- (4) An additional control requirement shall be established if requested by the owner or operator of a source.
- (5) Additional controls may be required to achieve air contaminant reduction as part of a State Implementation Plan.

Section 32-010 Visible Air Contaminant Limitations

- (1) The emissions standards in this section do not apply to fugitive emissions from a source or part of a source.
- (2) For all visible emission standards in this section, the minimum observation period must be six minutes, though longer periods may be required by a specific rule or permit condition. Aggregate times (e.g., 3 minutes in any one hour) consist of the total duration of all readings during the observation period that are equal to or greater than the opacity percentage in the standard, whether or not the readings are consecutive. Each EPA Method 203B reading represents 15 seconds of time. Three-minute aggregate periods are measured by:
 - (a) EPA Method 203B;
 - (b) A continuous opacity monitoring system (COMS) installed and operated in accordance with the DEQ Continuous Monitoring Manual or 40 CFR part 60; or
 - (c) An alternative monitoring method approved by LRAPA that is equivalent to EPA Method 203B.

- (3) For sources, other than wood-fired boilers, no person may emit or allow to be emitted any visible emissions that equal or exceed an average of 20 percent opacity for a period or periods aggregating more than three minutes in any one hour.
- (4) For wood-fired boilers that existed prior to June 1, 1970, no person may emit or allow to be emitted any visible emissions that equal or exceed:
 - (a) An average of 40 percent opacity for a period or periods aggregating more than three minutes in any one hour through December 31, 2019.
 - (b) An average of 20 percent opacity for a period or periods aggregating more than three minutes in any one hour on or after January 1, 2020, with one or more of the following exceptions:
 - (A) Visible emissions may equal or exceed 20 percent opacity but may not equal or exceed 40 percent opacity, as the average of all three-minute aggregate periods during grate cleaning operations provided the grate cleaning is performed in accordance with a grate cleaning plan approved by LRAPA; or
 - (B) LRAPA may approve, at the owner's or operator's request, a boiler specific limit greater than 20 percent opacity for a period or periods aggregating more than three minutes in any one hour, but not to equal or exceed 40 percent opacity for a period or periods aggregating more than three minutes in any one hour, based on the opacity measured during a source test that demonstrates compliance with 32-020(2) as provided below:
 - (i) Opacity must be measured for at least 60 minutes during each compliance source test run using any method included in subsection (2);
 - (ii) The boiler specific limit will be the average of at least 30 three-minute aggregate periods obtained during the compliance source test;
 - (iii) The boiler specific limit will include a higher limit for one three-minute aggregate period during any hour based on the maximum three-minute aggregate periods measured during the compliance source test; and
 - (iv) Specific opacity limits will be included in the permit for each affected source as a minor permit modification (simple fee) for sources with an LRAPA Title V Operating Permit or a Basic Technical Modification for sources with an Air Contaminant Discharge Permit.
- (5) For wood-fired boilers installed, constructed, or modified after June 1, 1970 but before April 16, 2015, no person may emit or allow to be emitted any visible emissions that equal or exceed an average of 20 percent opacity for a period or periods aggregating more than three minutes in any one hour.
- (6) For all wood-fired boilers installed, constructed, or modified after April 16, 2015, no person may emit or allow to be emitted any visible emissions that equal or exceed an average of 20 percent opacity for a period or periods aggregating more than three minutes in any one hour.

Section 32-015 Particulate Emission Limitations for Sources Other Than Fuel Burning Equipment, Refuse Burning Equipment and Fugitive Emissions

- (1) This section does not apply to fugitive emissions sources, fuel burning equipment, refuse burning equipment, or to solid fuel burning devices certified under OAR 340-262-0500.
- (2) No person may cause, suffer, allow, or permit particulate matter emissions from any air contaminant source in excess of the following limits:
 - (a) For sources installed, constructed, or modified before June 1, 1970:
 - (A) 0.10 grains per dry standard cubic foot provided that all representative compliance source test results collected prior to April 16, 2015 demonstrate emissions no greater than 0.080 grains per dry standard cubic foot;
 - (B) If any representative compliance source test results collected prior to April 16, 2015 demonstrate emissions greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results, then:
 - (i) 0.24 grains per dry standard cubic foot prior to Dec. 31, 2019; and
 - (ii) 0.15 grains per dry standard cubic foot on or after Jan. 1, 2020; and
 - (C) In addition to the limits in subparagraphs (A) or (B), for equipment or a mode of operation that is used less than 876 hours per calendar year, 0.24 grains per dry standard cubic foot from April 16, 2015 through December 31, 2019, and 0.20 grains per dry standard cubic foot on or after Jan. 1, 2020.
 - (b) For sources installed, constructed, or modified on or after June 1, 1970 but prior to April 16, 2015:
 - (A) 0.10 grains per dry standard cubic foot provided that all representative compliance source test results prior to April 16, 2015 demonstrate emissions no greater than 0.080 grains per dry standard cubic foot; or;
 - (B) If any representative compliance source test results prior to April 16, 2015 are greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results, then 0.14 grains per dry standard cubic foot.
 - (c) For sources installed, constructed or modified after April 16, 2015, 0.10 grains per dry standard cubic foot.
 - (d) The owner or operator of a source installed, constructed, or modified before June 1, 1970 who is unable to comply with the standard in sub-subparagraph (a)(B)(ii) may request that LRAPA grant an extension allowing the source up to one additional year to comply with the standard. The request for an extension must be submitted no later than Oct. 1, 2019.
- (3) Compliance with the emissions standards in subsection (2) is determined using:

- (a) DEQ Method 5;
- (b) DEQ Method 8, as approved by LRAPA for sources with exhaust gases at or near ambient conditions;
- (c) DEQ Method 7 for direct heat transfer sources; or
- (d) An alternative method approved by LRAPA.
- (e) For purposes of this section, representative compliance source test results are data that was obtained:
 - (A) No more than ten years before April 16, 2015; and
 - (B) When a source is operating and maintaining air pollution control devices and emission reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions based on the current configuration of the emissions unit and pollution control equipment.

Section 32-020 Particulate Matter Weight Standards - Existing Combustion Sources

- (1) For fuel burning equipment sources installed, constructed, or modified before June 1, 1970, except solid fuel burning devices that have been certified under OAR 340-262-0500, no person may cause, suffer, allow, or permit particulate matter emissions from any fuel burning equipment in excess of the following limits:
 - (a) 0.10 grains per dry standard cubic foot provided that all representative compliance source test results collected prior to April 16, 2015 demonstrate emissions no greater than 0.080 grains per dry standard cubic foot;
 - (b) If any representative compliance source test results collected prior to April 16, 2015 demonstrate emissions greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results, then:
 - (A) 0.24 grains per dry standard cubic foot until Dec. 31, 2019; and
 - (B) 0.15 grains per dry standard cubic foot on and after Jan. 1, 2020; and
 - (c) In addition to the limits in paragraph (a) or (b), for equipment or a mode of operation (e.g., backup fuel) that is used less than 876 hours per calendar year, 0.24 grains per dry standard cubic foot from April 16, 2015 through December 31, 2019, and 0.20 grains per dry standard cubic foot on and after Jan. 1, 2020.
- (2) The owner or operator of a source installed, constructed or modified before June 1, 1970 who is unable to comply with the standard in subparagraph (1)(b)(B) may request that LRAPA set a source specific limit of 0.17 grains per dry standard cubic foot. The owner or operator must submit an application for a permit modification to request the alternative limit by no later than Oct. 1, 2019 that demonstrates, based on a signed report prepared by a registered professional engineer that specializes in boiler/multiclone operation, that the

fuel burning equipment will be unable to comply with the standard in subparagraph (1)(b)(B) after either:

- (a) Maintenance or upgrades to an existing multiclone system; or
 - (b) Conducting a boiler tune-up if the boiler does not have a particulate matter emission control system.
- (3) If a source qualifies under subsection (2), LRAPA will add the 0.17 grains per dry standard cubic foot source specific limit as a significant permit modification (simple fee) for sources with an LRAPA Title V Operating Permit or a Simple Technical Modification for sources with an Air Contaminant Discharge Permit.
- (4) The owner or operator of a source installed, constructed or modified before June 1, 1970 may request that LRAPA grant an extension allowing the source up to one additional year to comply with the standard in subsection (2) provided that the owner or operator demonstrates, based on an engineering report signed by a registered professional engineer that specializes in boiler/multiclone operation, that the source cannot comply with the source specific limit established in 32-020(2) without making significant changes to the equipment or control equipment or adding control equipment. The request for an extension must be submitted no later than Oct. 1, 2019.
- (5) Compliance with the emissions standards in 32-020 is determined using Oregon Method 5, or an alternative method approved by LRAPA.
- (a) For fuel burning equipment that burns wood fuel by itself or in combination with any other fuel, the emission results are corrected to 12% CO₂.
 - (b) For fuel burning equipment that burns fuels other than wood, the emission results are corrected to 50% excess air.
 - (c) For purposes of this rule, representative compliance source test results are data that was obtained:
 - (A) No more than ten years before April 16, 2015; and
 - (B) When a source is operating and maintaining air pollution control devices and emission reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions based on the current configuration of the fuel burning equipment and pollution control equipment.

Section 32-030 Particulate Matter Weight Standards - New Combustion Sources

- (1) For fuel burning equipment sources installed, constructed, or modified after June 1, 1970, but prior to April 16, 2015, except solid fuel burning devices that have been certified under OAR 340-262-0500, no person may cause, suffer, allow, or permit particulate matter emissions from any fuel burning equipment in excess of the following limits:
- (a) 0.10 grains per dry standard cubic foot provided that all representative compliance source test results prior to April 16, 2015 demonstrate emissions no greater than 0.080 grains per dry standard cubic foot; or

- (b) If any representative compliance source test results collected prior to April 16, 2015 demonstrate emissions greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results, then 0.14 grains per dry standard cubic foot.
- (2) For sources installed, constructed or modified after April 16, 2015, except solid fuel burning devices that have been certified under OAR 340-262-0500, no person may cause, suffer, allow, or permit particulate matter emissions from any fuel burning equipment in excess of 0.10 grains per dry standard cubic foot.
- (3) Compliance with the emissions standards in 32-030 is determined using DEQ Method 5, or an alternative method approved by LRAPA.
 - (a) For fuel burning equipment that burns wood fuel by itself or in combination with any other fuel, the emission results are corrected to 12% CO₂.
 - (b) For fuel burning equipment that burns fuels other than wood, the emission results are corrected to 50% excess air.
 - (c) For purposes of this section, representative compliance source test results are data that was obtained:
 - (A) No more than ten years before April 16, 2015; and
 - (B) When a source is operating and maintaining air pollution control devices and emission reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions based on the current configuration of the fuel burning equipment and pollution control equipment.

Section 32-045 Process Weight Emission Limitations and Determination of Process Weight

- (1) No person may cause, suffer, allow, or permit the emissions of particulate matter in any one hour from any process in excess of the amount shown in 32-8010, for the process weight rate allocated to such process.
- (2) Process weight is the total weight of all materials introduced into a piece of process equipment. Solid fuels charged are considered part of the process weight, but liquid and gaseous fuels and combustion air are not.
 - (a) For a cyclical or batch operation, the process weight per hour is derived by dividing the total process weight by the number of hours in one complete operation, excluding any time during which the equipment is idle.
 - (b) For a continuous operation, the process weight per hour is derived by dividing the process weight by a typical period of time, as approved by LRAPA.
- (3) Where the nature of any process or operation or the design of any equipment permits more than one interpretation of this rule, the interpretation that results in the minimum value for allowable emission applies.

Section 32-050 Concealment and Masking of Emissions

- (1) No person shall willfully cause or permit the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission of air contaminant which would otherwise violate these rules.
- (2) No person shall cause or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes or tends to cause detriment to health, safety or welfare of any person.

Section 32-055 Particulate Fallout Limitation

No person may cause or permit the emission of particulate matter larger than 250 microns in size at such duration or quantity as to create an observable deposition upon the real property of another person.

Section 32-060 Air Conveying Systems

- (1) Affected Sources

Dry material air conveying systems located within PM₁₀ Nonattainment or Maintenance Areas which use a cyclone or other mechanical separating device and which have a baseline year emission rate of three (3) metric tons or more of particulate matter are affected sources.

- (2) Emission Limits for Affected Sources

Notwithstanding the general and specific emission standards and regulations contained in these rules, affected sources shall not emit particulate matter to the atmosphere in excess of the following amounts:

- (a) One (1) metric ton/year (1.10 tons/year)
- (b) 2.88 kg/day (6.24 lbs./day)

Gaseous Emission Limitations

Section 32-065 Sulfur Content of Fuels

- (1) Residual Fuel Oils

No person may sell, distribute, use or make available for use, any residual fuel oil containing more than 1.75 percent sulfur by weight.

- (2) Distillate Fuel Oils

No person may sell, distribute, use or make available for use, any distillate fuel oil or on-specification used oil containing more than the following percentages of sulfur:

- (a) ASTM Grade 1 fuel oil - 0.3 percent by weight
- (b) ASTM Grade 2 fuel oil - 0.5 percent by weight
- (3) Coal
 - (a) Except as provided in paragraph (b), no person may sell, distribute, use or make available for use, any coal containing greater than 1.0 percent sulfur by weight.
 - (b) No person may sell, distribute, use or make available for use any coal or coal-containing fuel with greater than 0.3 percent sulfur and five (5) percent volatile matter as defined in ASTM Method D3175 for direct space heating within PM10 nonattainment or maintenance areas. For coals subjected to a devolatilization process, compliance with the sulfur limit may be demonstrated on the sulfur content of coal prior to the devolatilization process.
 - (c) Distributors of coal or coal-containing fuel destined for direct residential space heating use must keep records for a five-year period which must be available for LRAPA inspection and which:
 - (A) Specify quantities of coal or coal-containing fuels sold;
 - (B) Contain name and address of customers who are sold coal or coal-containing fuels;
 - (C) Specify the sulfur and volatile content of coal or the coal-containing fuel sold to residences in PM10 nonattainment or maintenance areas.
- (4) Exemptions. Exempted from the requirements of 32-065(1) through (3), above, are:
 - (a) Fuels used exclusively for the propulsion and auxiliary power requirements of vessels, railroad locomotives and diesel motor vehicles.
 - (b) With prior approval of LRAPA, fuels used in such a manner or control provided such that sulfur dioxide emissions can be demonstrated to be equal to or less than those resulting from the combustion of fuels complying with the limitations of 32-065.

Section 32-070 Sulfur Dioxide Emission Limitations

Fuel Burning Equipment: The following emissions standards are applicable to new sources (any air contaminant source installed, constructed or modified after January 1, 1972) except recovery furnaces regulated in LRAPA Title 33:

- (1) For fuel burning equipment having more than 150 million BTU per hour heat input, but not more than 250 million BTU per hour input, no person shall cause, suffer, allow or permit the emission into the atmosphere of sulfur dioxide in excess of:
 - (a) 1.4 pounds per million BTU heat input, maximum 3-hour average, when liquid fuel is burned.

- (b) 1.6 pounds per million BTU heat input, maximum 3-hour average, when solid fuel is burned.
- (2) For fuel burning equipment having more than 250 million BTU per hour heat input, no person shall cause, suffer, allow or permit the emission into the atmosphere of sulfur dioxide in excess of:
 - (a) 0.8 pounds per million BTU heat input, maximum 3-hour average, when liquid fuel is burned.
 - (b) 1.2 pounds per million BTU heat input, maximum 3-hour average, when solid fuel is burned.

Section 32-075 Federal Acid Rain Regulations Adopted by Reference

- (1) 40 CFR parts 72, 75, and 76 are by this reference adopted and incorporated herein, for purposes of implementing an acid rain program that meets the requirements of Title IV of the FCAA. The term "permitting authority" shall mean LRAPA, and the term "Administrator" means the Administrator of the United States EPA.
- (2) If the provisions or requirements of 40 CFR part 72 conflict with or are not included in OAR divisions 218 and 220, the part 72 provisions and requirements must apply and take precedence.

Section 32-090 Other Emissions

- (1) No person shall discharge from any source whatsoever such quantities of air contaminants which cause injury or damage to any persons, the public, business or property. Such determination is to be made by LRAPA.
- (2) No person shall cause or permit emission of water vapor if the water vapor causes or tends to cause detriment to the health, safety or welfare of any person or causes, or tends to cause damage to property or business.

Section 32-100 Alternative Emission Controls (Bubble) [moved from 34-060(8)]

- (1) LRAPA may approve alternative emission controls for VOC and NO_x emissions in a Standard ACDP or LRAPA Title V Operating Permit for use within a single source such that a specific emission limit is exceeded, provided that:
 - (a) Such alternatives are not specifically prohibited by a rule or permit condition;
 - (b) Net total emissions for each regulated pollutant from all emissions units involved (i.e., "under the bubble") are not increased above the PSEL;
 - (c) The owner or operator of the source demonstrates the net air quality under 38-0520;

- (d) No other air contaminants including malodorous, toxic or hazardous pollutants are substituted;
 - (e) BACT and LAER, where required by a previously issued permit pursuant to LRAPA Title 38 (NSR), LRAPA Title 46 (NSPS), and LRAPA Title 44 (NESHAP), where required, are not relaxed;
 - (f) Specific emission limits are established for each emission unit involved (“under the bubble”) such that compliance with the PSEL can be readily determined;
 - (g) The owner or operator of the source applies for a permit or permit modification and such application is approved by LRAPA; and
 - (h) The emissions unit that reduces its emissions achieves the reductions by reducing its allowable emission rate, and not by reducing production, throughput, or hours of operation.
- (2) The permit will include a net total emissions limit on total emissions from all devices or emissions units involved (“under the bubble”).
 - (3) Alternative emission controls, in addition to those allowed in subsection (1), may be approved by LRAPA and EPA as a source specific SIP amendment.

Section 32-8010

Particulate Matter Emissions Standards for Process Equipment						
Process lbs/hr	Emissions lbs/hr	Process lbs/hr	Emissions lbs/hr	Process lbs/hr	Emissions lbs/hr	
50	0.24	2300	4.44	7500	8.39	
100	0.46	2400	4.55	8000	8.71	
150	0.66	2500	4.64	8500	9.03	
200	0.85	2600	4.74	9000	9.36	
250	1.03	2700	4.84	9500	9.67	
300	1.20	2800	4.92	10000	10.00	
350	1.35	2900	5.02	11000	10.63	
400	1.50	3000	5.10	12000	11.28	
450	1.63	3100	5.18	13000	11.89	
500	1.77	3200	5.27	14000	12.50	
550	1.89	3300	5.36	15000	13.13	
600	2.01	3400	5.44	16000	13.74	
650	2.12	3500	5.52	17000	14.36	
700	2.24	3600	5.61	18000	14.97	
750	2.34	3700	5.69	19000	15.58	
800	2.43	3800	5.77	20000	16.19	
850	2.53	3900	5.85	30000	22.22	
900	2.62	4000	5.93	40000	28.30	
950	2.72	4100	6.01	50000	34.30	
1000	2.80	4200	6.08	60000	40.00	
1100	2.97	4300	6.15	70000	41.30	
1200	3.12	4400	6.22	80000	42.50	
1300	3.26	4500	6.30	90000	43.60	
1400	3.40	4600	6.37	100000	44.60	
1500	3.54	4700	6.45	120000	46.30	
1600	3.66	4800	6.52	140000	47.80	
1700	3.79	4900	6.60	160000	49.00	
1800	3.91	5000	6.67	200000	51.20	

Particulate Matter Emissions Standards for Process Equipment						
Process lbs/hr	Emissions lbs/hr	Process lbs/hr	Emissions lbs/hr	Process lbs/hr	Emissions lbs/hr	
1900	4.03	5500	7.03	1000000	69.00	
2000	4.14	6000	7.37	2000000	77.60	
2100	4.24	6500	7.71	6000000	92.70	
2200	4.34	7000	8.05			

Interpolation and extrapolation of emissions above a process weight of 6,000,000 pounds/ hour shall be accomplished by the use of this equation:

$$E = (55.0 \times P^{0.11}) - 40,$$

where: P = process weight in tons/ hour, and

E = emission rate in pounds/hour.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 33

PROHIBITED PRACTICES AND CONTROL OF SPECIAL CLASSES OF INDUSTRY

Section 33-005 Definitions

See individual sections for applicable definitions. The definitions in title 12 and in the individual sections in this title apply to this title. If the same term is defined in this title and title 12, the definition in this title applies to this title.

Section 33-045 Gasoline Tanks

Gasoline tanks with a capacity of 1500 gallons or more may not be installed without a permanent submerged fill pipe or other adequate vapor loss control device in any control area.

Section 33-060 Board Products Industries (Hardboard, Particleboard, Plywood, Veneer)

(1) Definitions

- "Baseline emissions rate" means a source's actual emissions rate during the baseline period, as defined in title 12, expressed as pounds of emissions per thousand square feet of finished product, on a 1/8" basis.
- "Tempering oven" means any facility used to bake hardboard following an oil treatment process.

(2) General Provisions

- (a) This section establishes minimum performance and emission standards for veneer, plywood, particleboard and hardboard manufacturing operations.
- (b) Emission limitations established herein are in addition to, and not in lieu of, general emission standards for visible emissions, fuel burning equipment, and refuse burning equipment, except as provided for in 33-060(3).
- (c) Each affected veneer, plywood, particleboard, and hardboard plant must proceed with a progressive and timely program of air pollution control. Each plant must, at the request of LRAPA, submit periodic reports in such form and frequency as directed to demonstrate the progress being made toward full compliance with 33-060(2) through (5).

(3) Veneer and Plywood Manufacturing Operations

- (a) Veneer Dryers:

- (A) Consistent with 33-060(2)(a) through (c), it is the objective of this section to control air contaminant emissions, including but not limited to condensable hydrocarbons, such that visible emissions from each veneer dryer are limited to a level which does not cause a characteristic "blue haze" to be observable.
- (B) No person may operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed:
 - (i) A daily average operating opacity of 10 percent on more than two days within any 12-month period, with the days separated from each other by at least 30 days, as measured by EPA Method 9; and
 - (ii) A maximum opacity of 20 percent at any time as measured by EPA Method 9.
- (C) Particulate emissions from wood-fired veneer dryers may not exceed:
 - (i) 0.75 pounds per 1000 square feet of veneer dried (3/8 inch basis) for units using fuel which has a moisture content equal to or less than 20 percent by weight on a wet basis as measured by ASTM D442-84;
 - (ii) 1.50 pounds per 1000 square feet of veneer dried (3/8 inch basis) for units using fuel which has a moisture content of greater than 20 percent by weight on a wet basis as measured by ASTM D442-84; or
 - (iii) 0.40 pounds per 1000 pounds of steam generated in boilers which exhaust gases to the veneer dryer.
- (D) Exhaust gases from fuel-burning equipment vented to the veneer dryer are exempt from 32-020 and 32-030.
- (E) Each veneer dryer must be maintained and operated at all times such that air contaminant generating processes and all contaminant control devices must be at full efficiency and effectiveness so that the emissions of air contaminants are kept at the lowest practicable levels.
- (F) No person may willfully cause or permit the installation or use of any means, such as dilution, which without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this regulation.
- (G) Where effective measures are not taken to minimize fugitive emissions, LRAPA may require that the equipment or structures in which processing, handling and storage are done be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air.
- (H) LRAPA may require more restrictive emission limits than provided in subparagraphs (a)(A) and (a)(B) for an individual plant upon finding by the Board

that the individual plant is located or is proposed to be located in a special problem area. The more restrictive emission limits for special problem areas may be established on the basis of allowable emission expressed in opacity, pounds per hour, or total maximum daily emissions to the atmosphere, or a combination thereof.

- (b) Other Sources: No person shall cause to be emitted particulate matter from veneer and plywood mill sources, including but not limited to, sanding machines, saws, presses, barkers, hogs, chippers and other material size reduction equipment, process or space ventilation systems, and truck loading and unloading facilities in excess of a total from all sources within the plant site of an average hourly emission rate (pounds/hour) based on the maximum hourly production capacity of the facility times one (1.0) pound per 1000 square feet of production. Production is expressed in terms of 1000 square feet of plywood or veneer production on a 3/8 inch basis of finished product equivalent. The maximum hourly production capacity is the maximum production capacity for a typical operating shift divided by the number of hours in the operating shift.
- (c) Excepted from paragraph (b) are veneer dryers, fuel burning equipment and refuse burning equipment.
- (d) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.
- (e) Monitoring and Reporting: LRAPA may require any veneer dryer facility to establish an effective program for monitoring the visible air contaminant emissions from each veneer dryer emission point. The program must be reviewed and approved by LRAPA and must consist of the following:
 - (A) A specified minimum frequency for performing visual opacity determinations on each dryer emission point;
 - (B) All data obtained must be recorded on copies of a "Veneer Dryer Visual Emission Monitoring Form" provided by LRAPA or on an alternate form which is approved by LRAPA; and
 - (C) A specified period during which all records must be maintained at the plant site for inspection by authorized representatives of LRAPA.

(4) Particleboard Manufacturing Operations

- (a) Every person operating or intending to operate a particleboard manufacturing plant must enclose all truck dump and storage areas holding or intended to hold raw materials to prevent windblown particle emissions from these areas to be deposited upon property not under the ownership of said person.
- (b) The temporary storage of raw materials outside the regularly used areas of the plant site is prohibited unless the person who desires to temporarily store such raw materials notifies LRAPA and receives written approval for said storage:

- (A) When authorized by LRAPA, temporary storage areas must be operated to prevent windblown particulate emissions from being deposited upon property not under the ownership of the person storing the raw materials.
- (B) Any temporary storage areas authorized by LRAPA may not be operated in excess of six (6) months from the date they are first authorized.
- (c) Any person who proposes to control windblown particulate emissions from truck dump and storage areas other than by enclosure must apply to LRAPA for authorization to utilize alternative controls. The application must describe in detail the plan proposed to control windblown particulate emissions and indicate on a plot plan the nearest location of property not under ownership of the applicant.
- (d) The combined particulate emissions from particleboard plant sources including, but not limited to, hogs, chippers and other material size reduction equipment, process or space ventilation systems, particle dryers, classifiers, presses, sanding machines and materials handling systems must not exceed a plant specific average hourly emission rate, pounds per hour, determined by multiplying the plant production capacity by three pounds per 1,000 square feet. The plant production capacity is the maximum production in terms of 1,000 square feet on a 3/4 inch basis of finished product for a typical operating shift divided by the number of hours in the operating shift.
- (e) Excepted from paragraph (d) are truck dump and storage areas, fuel burning equipment and refuse burning equipment.
- (f) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.

(5) Hardboard Manufacturing Operations

- (a) Every person operating or intending to operate a hardboard manufacturing plant must enclose all truck dump and storage areas holding or intended to hold raw materials to prevent windblown particle emissions from these areas to be deposited upon property not under the ownership of said person;
- (b) The temporary storage of raw materials outside the regularly used areas of the plant site is prohibited unless the person who desires to temporarily store such raw materials first notifies LRAPA and receives written approval:
 - (A) When authorized by LRAPA, temporary storage areas must be operated to prevent windblown particulate emissions from being deposited upon property not under the ownership of the person storing the raw materials;
 - (B) Any temporary storage areas authorized by LRAPA may not be operated in excess of six (6) months from the date they are first authorized.

(c) Alternative Means of Control

Any person who desires to control windblown particulate emissions from truck dump and storage areas other than by enclosure must first apply to LRAPA for authorization to utilize alternative controls. The application must be submitted pursuant to LRAPA 34-035 and shall describe in detail the plan proposed to control windblown particulate emissions and indicate on a plot plan the nearest location of property not under ownership of the applicant.

- (d) The combined particulate emissions from all emissions sources at the plant must not exceed a plant specific hourly average emission rate determined by multiplying the plant production capacity by one (1.0) pound per 1,000 square feet of production. The plant production capacity is the maximum production in terms of 1000 square feet on a 1/8 inch finished basis for a typical operating shift divided by the number of hours in the operating shift.
 - (e) Excepted from paragraphs (d) and (e) are truck dump and storage areas, fuel burning equipment and refuse burning equipment.
 - (f) Compliance with the average hourly emission rate is determined by summing the emissions from the affected sources as determined by emission factor calculations or actual emissions data for a 24 hour period divided by 24.
 - (g) No person may operate any hardboard tempering oven unless all gases and vapors emitted from said oven are treated in a fume incinerator capable of raising the temperature of said gases and vapors to at least 1500°F for 0.3 seconds or longer except that specific operating temperatures lower than 1500°F may be approved by LRAPA using the procedures in 40 CFR 63.2262 of the NESHAP for Plywood and Composite Wood Products.
- (6) **Testing and Monitoring:** All source tests must be done using the DEQ Source Sampling Manual.
- (a) Veneer dryers, wood particle dryers, fiber dryers and press/cooling vents must be tested using DEQ Method 7.
 - (b) Air conveying systems must be tested using DEQ Method 8.
 - (c) Fuel burning equipment must be tested using DEQ Method 5. When combusting wood fuel by itself or in combination with any other fuel, the emission results are corrected to 12% CO₂. When combusting fuels other than wood, the emission results are corrected to 50% excess air.

Section 33-065 Charcoal Producing Plants

- (1) No person may cause or permit the emission of particulate matter from charcoal producing plant sources including, but not limited to, charcoal furnaces (retorts), heat recovery boilers, after combustion chambers, and wood dryers using any portion of the charcoal furnace off-gases as a heat source, in excess of a total from all sources within the plant site of 10.0 pounds per ton of charcoal produced (as determined from the retort process) as an annual average.

- (2) Emissions from char storage, briquette making (excluding dryers using furnace off-gases), boilers not using charcoal furnace off-gases, and fugitive sources are excluded in determining compliance with subsection (1).
- (3) Charcoal producing plants as described in subsection (1) are exempt from the limitations of 32-030 which concern particulate emission concentrations.
- (4) LRAPA may require the installation and operation of instruments and recorders for measuring emissions and/or parameters which affect the emission of air contaminants from sources covered by this rule to ensure that the sources and the air pollution control equipment are operated at all times at their full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable level. The instruments and recorders must be periodically calibrated. The method and frequency of calibration must be approved in writing by LRAPA. The recorded information must be kept for a period of at least one year and shall be made available to LRAPA upon request.
- (5) The person responsible for the sources of particulate emissions must make or have made tests once every year to determine the type, quantity, quality and duration of emissions, and process parameters affecting emissions, in conformance with test methods of file with LRAPA. If this test exceeds the annual emission limitation then three (3) additional tests are required at three (3) month intervals with all four (4) tests being averaged to determine compliance with the annual standard. No single test may be greater than twice the annual average emission limitation for that source.
 - (a) Source testing must begin within 90 days of the date by which compliance is to be achieved for each individual emission source.
 - (b) These source testing requirements must remain in effect unless waived in writing by LRAPA upon adequate demonstration that the source is consistently operating at lowest practicable levels.

Section 33-070 Kraft Pulp Mills

(1) Definitions

- "BLS" means black liquor solids, dry weight.
- "Continuous Monitoring" means instrumental sampling of a gas stream on a continuous basis, excluding periods of calibration.
- "Daily arithmetic average" means the average concentration over the twenty-four hour period in a calendar day, as determined by continuous monitoring equipment or reference method testing. Any equivalent period must be approved first by EPA. Determinations based on EPA reference methods using the DEQ Source Sampling Manual consist of three (3) separate consecutive runs having a minimum sampling time of sixty (60) minutes each and a maximum sampling time of eight (8) hours each. The three values for concentration (ppm or grains/dscf) are averaged and expressed as the daily arithmetic average which is used to determine compliance with process weight limitations, grain loading or volumetric concentration limitations and to

determine daily emission rate.

- "Dry standard cubic meter" means the amount of gas that would occupy a volume of one cubic meter, if the gas were free of uncombined water, at a temperature of 20° C. (68° F.) and a pressure of 760 mm of mercury (29.92 inches of mercury). The corresponding English unit is dry standard cubic foot.
- "Kraft mill" or "mill" means any industrial operation which uses for a cooking liquor an alkaline sulfide solution containing sodium hydroxide and sodium sulfide in its pulping process.
- "Lime kiln" means any production device in which calcium carbonate is thermally converted to calcium oxide.
- "Non-condensables" means gases and vapors, contaminated with TRS compounds, from the digestion and multiple-effect evaporation processes of a mill.
- "Operations" includes plant, mill or facility.
- "Other sources" as used in 33-070 means sources of TRS emissions in a kraft mill other than recovery furnaces, lime kilns smelt dissolving tanks, sewers, drains, and wastewater treatment facilities, including but not limited to:
 - A. Vents from knotters, brown stock washing systems, evaporators, blow tanks, blow heat accumulators, black liquor storage tanks, black liquor oxidation system, pre-steaming vessels, tall oil recovery operation; and
 - B. Any vent which is shown to contribute to an identified nuisance condition.
- "Production" as used in 33-070 means the daily amount of air-dried unbleached pulp, or equivalent, produced during the 24-hour period each calendar day, or LRAPA-approved equivalent period, and expressed in air-dried metric tons (admt) per day. The corresponding English unit is air-dried tons (adt) per day.
- "Recovery furnace" means the combustion device in which dissolved wood solids are incinerated and pulping chemicals recovered from the molten smelt. For 33-070, this term includes the direct contact evaporator, if present.
- "Recovery system" means the process by which all or part of the cooking chemicals may be recovered, and cooking liquor regenerated from spent cooking liquor, including evaporation, combustion, dissolving, fortification, and storage facilities associated with the recovery cycle.
- "Smelt dissolving tank vent" means the vent serving the vessel used to dissolve the molten smelt produced by the recovery furnace.

(2) Statement of Policy

Recent technological developments have enhanced the degree of malodorous emissions

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control possible for the kraft pulping process. While recognizing that complete malodorous and particulate emission control is not presently possible, consistent with the meteorological and geographical conditions in Oregon, it is hereby declared to be the policy of LRAPA to:

- (a) Require, in accordance with a specific program and time table for all sources at each operating mill, the highest and best practicable treatment and control of atmospheric emissions from kraft mills through the utilization of technically feasible equipment, devices, and procedures. Consideration will be given to the economic life of equipment which, when installed, complies with the highest and best practicable treatment requirement.
- (b) Require degrees and methods of treatment for major and minor emissions points that will minimize emissions of odorous gases and eliminate ambient odor nuisances.
- (c) Require effective monitoring and reporting of emissions and reporting of other data pertinent to air quality or emissions. LRAPA will use these data in conjunction with ambient air data and observation of conditions in the surrounding area to develop and revise emission and ambient air standards, and to determine compliance therewith.
- (d) Encourage and assist the kraft pulping industry to conduct a research and technological development program designed to progressively reduce kraft mill emissions, in accordance with a definite program, including specified objectives and time schedules.

(3) Emission Limitations

(a) Emission of Total Reduced Sulfur (TRS):

(A) Recovery Furnaces:

- (i) The emissions of TRS from each recovery furnace placed in operation before January 1, 1969, may not exceed 10 ppm and 0.15 kg/metric ton (0.30 pound/ton) of production as daily arithmetic averages;
- (ii) TRS emissions from each recovery furnace placed in operation after January 1, 1969, and before September 25, 1976, or any recovery furnace modified significantly after January 1, 1969, and before September 25, 1976, to expand production, must be controlled such that the emissions of TRS may not exceed 5 ppm and 0.075 kg/metric ton (0.150 pound/ton) production as daily arithmetic averages.

- (B) Lime Kilns. Lime kilns must be operated and controlled such that emission of TRS may not exceed 20 ppm as a daily arithmetic average and 0.05 kg/metric ton (0.10 pound/ton) of production as a daily arithmetic average. This subparagraph applies to those sources where construction was initiated prior to September 25, 1976.

(C) Smelt Dissolving Tanks:

- (i) TRS emissions from each smelt dissolving tank may not exceed 0.0165 gram/kg BLS (0.033 pound/ton BLS) as a daily arithmetic average.

(D) Non-Condensables:

Non-condensables from digesters, multiple-effect evaporators and contaminated condensate stripping must be continuously treated to destroy TRS gases by thermal incineration in a lime kiln or incineration device capable of subjecting the non-condensables to a temperature of not less than 650°C (1200°F) for not less than 0.3 second. An alternate device meeting the above requirements must be available in the event adequate incineration in the primary device cannot be accomplished. Venting of TRS gases during changeover must be minimized but in no case may the time exceed one hour.

(E) Other Sources:

- (i) The total emissions of TRS from other sources may not exceed 0.078 kg/metric ton (0.156 pound/ton) of production as a daily arithmetic average.
- (ii) Miscellaneous Sources and Practices. If LRAPA determines that sewers, drains, and anaerobic lagoons significantly contribute to an odor problem, a program for control will be required.

(b) Particulate Matter:

(A) Recovery Furnaces. The emissions of particulate matter from each recovery furnace stack may not exceed:

- (i) 2.0 kilograms per metric ton (4.0 pounds per ton) of production as a daily arithmetic average;
- (ii) 0.30 gram per dry standard cubic meter (0.13 grain per dry standard cubic foot) as a daily arithmetic average; and
- (iii) Thirty-five percent opacity for a period or periods aggregating more than thirty (30) minutes in any one hundred and eighty (180) consecutive minutes or more than sixty (60) minutes in any twenty four (24) consecutive hours (excluding periods when the facility is not operating).

(B) Lime Kilns. The emissions of particulate matter from each lime kiln stack may not exceed:

- (i) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average;
- (ii) 0.46 gram per dry standard cubic meter (0.20 grain per dry standard cubic foot) as a daily arithmetic average; and
- (iii) The visible emission limitations in 33-070(3)(d).

(C) Smelt Dissolving Tanks. The emission of particulate matter from each smelt

dissolving tank stack may not exceed:

- (i) A daily arithmetic average of 0.25 kilogram per metric ton (0.50 pound per ton) of production; and
 - (ii) The visible emission limitations in 33-070(3)(d).
- (D) Replacement of or modification or a rebuild of an existing particulate pollution control device for which a capital expenditure of 50 percent or more of the replacement cost of the existing device is required, other than ongoing routine maintenance, after July 1, 1988 will result in more restrictive standards as follows:
- (i) Recovery Furnaces.
 - (I) The emission of particulate matter from each affected recovery furnace stack may not exceed 1.00 kilogram per metric ton (2.00 pounds per ton) of production as a daily arithmetic average; and
 - (II) 0.10 gram per dry standard cubic meter (0.044 grain per dry standard cubic foot) as a daily arithmetic average.
 - (ii) Lime Kilns.
 - (I) The emission of particulate matter from each affected lime kiln stack may not exceed 0.25 kilogram per metric ton (0.50 pound per ton) of production as a daily arithmetic average; and
 - (II) 0.15 gram per dry standard cubic meter (0.067 grain per dry standard cubic foot) as a daily arithmetic average when burning gaseous fossil fuel; or
 - (III) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average; and
 - (IV) 0.30 gram per dry standard cubic meter (0.13 grain per dry standard cubic foot) as a daily arithmetic average when burning liquid fossil fuel.
 - (iii) Smelt Dissolving Tanks. The emissions of particulate matter from each smelt dissolving tank vent stack may not exceed 0.15 kilogram per metric ton (0.30 pound per ton) of production as a daily arithmetic average.
- (c) Sulfur Dioxide (SO₂). Emissions of sulfur dioxide from each recovery furnace stack may not exceed a 3-hour arithmetic average of 300 ppm on a dry-gas basis except when burning fuel oil. The sulfur content of fuel oil used may not exceed the sulfur content of residual and distillate oil established in 32-065(1) and (2), respectively.
- (d) Emissions from each kraft mill source, with the exception of the mill's emissions attributable to a recovery furnace, may not equal or exceed 20 percent opacity for a period exceeding three (3) minutes in any one (1) hour.

- (e) New Source Performance Standards. New or modified sources that commenced construction after September 24, 1976, are subject to each provision of this section and the New Source Performance Standards, 40 CFR part 60 subpart BB as adopted under 46-630, whichever is more stringent.

(4) More Restrictive Emission Limits

LRAPA may establish more restrictive emission limits than the numerical emission standards contained in 33-070(3) and maximum allowable daily mill site emission limits in kilograms per day for an individual mill upon a finding by LRAPA that:

- (a) The individual mill is located or is proposed to be located in a special problem area or an area where ambient air standards are exceeded or are projected to be exceeded or where the emissions will have a significant impact in an area where the standards are exceeded; or
- (b) An odor or nuisance problem has been documented at any mill, in which case the TRS emission limits may be reduced below the regulatory limits; or LRAPA may require the mill to undertake an odor emission reduction study program; or
- (c) Other rules which are more stringent apply.

(5) Monitoring

- (a) (Reserved)
- (b) Total Reduced Sulfur (TRS). Each mill must monitor TRS continuously using the following:
 - (A) The monitoring equipment must determine compliance with the emission limits and reporting requirements established by these regulations, and must continuously sample and record concentrations of TRS;
 - (B) The sources monitored must include, but are not limited to, individual recovery furnaces and lime kilns. All sources must be monitored downstream of their respective control devices, in either the ductwork or the stack, in accordance with the DEQ Continuous Monitoring Manual;
 - (C) Unless otherwise authorized or required by permit, at least once per year, vents from other sources as required in 33-070(3)(a)(E), other sources, must be sampled to demonstrate the representativeness of the emissions of TRS using EPA Method 16, 16A, 16B or continuous emissions monitors. Sampling using these EPA methods must consist of three (3) separate consecutive runs of one hour each, using the DEQ Source Sampling Manual. Continuous emissions monitors must be operated for three consecutive hours in accordance with the DEQ Continuous Monitoring Manual. All results must be reported to LRAPA;
 - (D) Smelt dissolving tank vents must be sampled for TRS quarterly except that testing

may be semi-annual when the preceding six source tests were less than 0.0124 gram/kg BLS (0.025 pound/ton BLS) using EPA Method 16, 16A, 16B or continuous emission monitors. Sampling using these EPA methods must consist of three (3) separate consecutive runs of one hour each using the DEQ Source Sampling Manual.

(c) Particulate Matter.

- (A) Each mill must sample the recovery furnace, lime kiln and smelt dissolving tank vent for particulate emissions as measured by EPA Method 5 or 17, using the DEQ Source Sampling Manual. Particulate matter emission determinations by EPA Method 5 must use water as the cleanup solvent instead of acetone, and consist of the average of three separate consecutive runs having a minimum sampling time of 60 minutes each, a maximum sampling time of eight hours each, and a minimum sampling volume of 31.8 dscf each.
 - (i) When applied to recovery furnace gases "dry standard cubic meter" requires adjustment of the gas volume to that which would result in a concentration of 8% oxygen if the oxygen concentration exceeds 8%.
 - (ii) When applied to lime kiln gases "dry standard cubic meter" requires adjustment of the gas volume to that which would result in a concentration of 10% oxygen if the oxygen concentration exceeds 10%.
 - (iii) The mill must demonstrate that oxygen concentrations are below the values in sub-subparagraphs (i) and (ii) or furnish oxygen levels and corrected data.
 - (B) Each mill must provide continuous monitoring of opacity of emissions discharged to the atmosphere from each recovery furnace stack using the DEQ Continuous Monitoring Manual.
 - (C) (Reserved)
 - (D) Recovery furnace particulate source tests must be performed quarterly except that testing may be semi-annual when the preceding six (6) source tests were less than 0.225 gram/dscm (0.097 grain/dscf) for furnaces subject to 33-070(3)(b)(A)(i) or 0.075 gram/dscm (0.033 grain/dscf) for furnaces subject to 33-070(3)(b)(D)(i)(I).
 - (E) Lime kiln source tests must be performed semi-annually.
 - (F) Smelt dissolving tank vent source tests must be performed quarterly except that testing may be semi-annual when the preceding six (6) source tests were less than 0.187 kilogram per metric ton (0.375 pound per ton) of production.
- (d) Sulfur Dioxide (SO₂). Representative sulfur dioxide emissions from each recovery furnace must be determined at least once each month by the average of three (3) one-hour source tests using the DEQ Source Sampling Manual or from continuous emission monitors. If continuous emission monitors are used, the monitors must be operated for three consecutive hours using the DEQ Continuous Monitoring Manual.

- (e) Combined Monitoring. LRAPA may allow the monitoring for opacity of a combination of more than one emission stream if each individual emission stream has been demonstrated (with the exception of opacity) to be in compliance with all the emission limits of 33-070(3). LRAPA may establish more stringent emission limits for the combined emission stream.
- (f) New Source Performance Standards Monitoring. New or modified sources that are subject to the New Source Performance Standards, 40 CFR part 60, subpart BB, must conduct monitoring or source testing as required by Subpart BB. In addition, when these rules are more stringent than 40 CFR part 60 subpart BB, LRAPA may require some or all of the relevant monitoring in this subsection.

(6) Reporting

If required by LRAPA or required by permit, each mill must report data each calendar month by the last day of the subsequent month as follows:

- (a) Applicable daily average emissions of TRS gases expressed in parts per million of H₂S on a dry gas basis with oxygen concentrations, if oxygen corrections are required, for each source included in the approved monitoring program.
- (b) Daily average emissions of TRS gases in pounds of total reduced sulfur per equivalent ton of pulp processed, expressed as H₂S for each source included in the approved monitoring program.
- (c) Maximum daily 3-hour average emissions of SO₂ based on all samples collected from the recovery furnace, expressed as ppm, dry basis.
- (d) All daily average opacities for each recovery furnace stack where transmissometers are utilized.
- (e) All 6-minute average opacities from each recovery furnace stack that exceed 35 percent.
- (f) Daily average kilograms of particulate per equivalent metric ton (pounds of particulate per equivalent ton) of pulp produced for each recovery furnace stack.
- (g) Unless otherwise approved in writing, all periods of non-condensable gas bypass must be reported.
- (h) Each Kraft mill must furnish, upon request of LRAPA, such other pertinent data as LRAPA may require to evaluate the mill's emission control program.
- (i) Monitoring data reported must reflect actual observed levels corrected for oxygen, if required, and analyzer calibration.
- (j) Oxygen concentrations used to correct regulated pollutant data must reflect oxygen concentrations at the point of measurement of regulated pollutants.

(8) Chronic Upset Conditions

If LRAPA determines that an upset condition is chronic and correctable by installing new or

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modified process or control procedures or equipment, the owner or operator must submit to LRAPA a program and schedule to effectively eliminate the deficiencies causing the upset conditions. Such reoccurring upset conditions causing emissions in excess of applicable limits may be subject to civil penalty or other appropriate action.

Section 33-075 Hot Mix Asphalt Plants

(1) Definitions

- "Dusts" means minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, or sweeping.
- "Hot mix asphalt plants" means those facilities and equipment which convey or batch load proportioned quantities of cold aggregate to a drier, and heat, dry, screen, classify, measure, and mix the aggregate with asphalt for purposes of paving, construction, industrial, residential, or commercial use.
- "Portable hot mix asphalt plants" means those hot mix asphalt plants which are designed to be dismantled and are transported from one job site to another job site.
- "Process weight" means the total weight of all materials introduced into any specific process which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. The "process weight per hour" will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.
- "Special control areas" means any area designated in OAR 340-204-0070, title 29, and:
 - (A) Any incorporated city or within six (6) miles of the city limits of said incorporate city;
 - (B) Any area of Lane County within one (1) mile of any structure or building used for a residence;
 - (C) Any area of Lane County within two (2) miles straight-line distance or air miles of any paved public road, highway, or freeway having a total of two (2) or more traffic lanes.

(2) Control Facilities Required

- (a) No person may operate any hot mix asphalt plant, either portable or stationary, located within any area of Lane County outside special control areas unless all dusts and gaseous effluents generated by the hot mix asphalt plant are controlled by a control device or devices with a removal efficiency for particulate matter of at least 80 percent by weight. To determine compliance with this standard, the owner or operator must conduct a particulate matter source test using DEQ Method 5 at the inlet and outlet of the control

device. If it is not feasible to conduct a particulate matter source test at the inlet to the control device, the owner or operator must provide documentation demonstrating that the control device is designed to meet the standard and prepare and implement an operation and maintenance plan for ensuring that the control device will have at least an 80 percent removal efficiency when operated.

- (b) No person may operate any hot mix asphalt plant, either portable or stationary, located within any special control area of Lane County without installing and operating systems or processes for the control of particulate emissions so as to comply with the emission limits established by the process weight table in 33-500, attached herewith and by reference made part of this rule. Compliance is determined using DEQ Method 5. All source tests must be done using the DEQ Source Sampling Manual.
- (c) Hot mix asphalt plants are subject to the emission limitations in 32-010, 32-015, and 46-535, as applicable.
- (d) If requested by LRAPA, the owner or operator must develop a fugitive emission control plan.

(3) Other Established Air Quality Limitations

The emission limits established under 33-075 are in addition to visible emission and other ambient air standards, established or to be established by the Board, unless otherwise provided by rule.

(4) Ancillary Sources of Emission--Housekeeping of Plant Facilities

- (a) Ancillary air contamination sources from a hot mix asphalt plant and its facilities which emit air contaminants into the atmosphere such as, but not limited to, the drier openings, screening and classifying system, hot rock elevator, bins, hoppers, and pug mill mixer, must be controlled at all times so as to maintain the highest possible level of air quality and the lowest possible discharge of air contaminants.
- (b) The handling of aggregate and truck traffic must be conducted at all times so as to minimize emissions into the atmosphere.

Section 33-080 Reduction of Animal Matter

(1) Control Facilities Required

- (a) A person may operate or use any article, machine, equipment or other contrivance for the reduction of animal matter unless all gases, vapors and gas-entrained effluents from such article, machine, equipment or other contrivance are:
 - (A) Incinerated at temperatures of not less than 1200°F for a period of not less than 0.3 seconds; or
 - (B) Processed in such a manner determined by LRAPA to be equally, or more, effective for the purpose of air pollution control than subparagraph (A).

- (b) Any person incinerating or processing gases, vapors or gas-entrained effluents pursuant to this section must provide, properly install and maintain in calibration, in good working order and in operation, devices as specified by LRAPA, for indicating temperature, pressure or other operating conditions.
- (c) For the purpose of this section, "reduction" is defined as any heated process, including rendering, cooking, drying, dehydrating, digesting, evaporating and protein concentrating.
- (d) The provisions of this section do not apply to any article, machine, equipment, or other contrivance used exclusively for the processing of food for human consumption.

(2) Monitoring of Reduction Facilities

- (a) When requested by LRAPA for the purpose of formulating plans in conjunction with industries who are or may be sources of air pollution, and to investigate sources of air pollution, monitoring data must be submitted for plant operational periods and must include:
 - (A) Continuous or at least hourly influent and effluent temperature readings on the condenser;
 - (B) Continuous or at least hourly temperature readings on the after-burner;
 - (C) Estimated weights of finished products processed in pounds per hour;
 - (D) Hours of operation per day; and
 - (E) A narrative description to accurately portray control practices, including the housekeeping measures employed.
 - (b) Except as otherwise required under the Oregon Public Records Law, ORS 192.410 to 192.505, when requested by the plant manager any information relating to processing or production must be kept confidential by LRAPA and may not be disclosed or made available to competitors or their representatives in the rendering industry.
 - (c) Whenever a breakdown of operating facilities occurs or unusual loads or conditions are encountered that cause or may cause release of excessive and malodorous gases or vapors, LRAPA must be immediately notified.
- (3) Housekeeping of Plant and Plant Area. The plant facilities and premises are to be kept clean and free of accumulated raw material, products, and waste materials. The methods used for housekeeping must include, but not be limited to:
- (a) A washdown at least once each working day, of equipment, facilities and building interiors that come in contact with raw or partially processed material, with steam or hot water and detergent or equivalent additive;

- (b) Storage of all solid wastes in covered containers, and daily disposal in an incinerator or fill, approved by LRAPA, or by contract with a company or municipal department providing such service; and
 - (c) Disposal of liquid and liquid-borne waste in a manner approved by LRAPA.
- (4) Applicability. Section 33-080 shall apply in all areas of Lane County which are within city limits or within two miles of the boundaries of incorporated cities.

Section 33-500 Particulate Matter Emissions Standards for Process Equipment

Particulate Matter Emissions Standards for Process Equipment						
Process lbs/hr	Emissions lbs/hr	Process lbs/hr	Emissions lbs/hr	Process lbs/hr	Emissions lbs/hr	
50	0.24	2300	4.44	7500	8.39	
100	0.46	2400	4.55	8000	8.71	
150	0.66	2500	4.64	8500	9.03	
200	0.85	2600	4.74	9000	9.36	
250	1.03	2700	4.84	9500	9.67	
300	1.20	2800	4.92	10000	10.00	
350	1.35	2900	5.02	11000	10.63	
400	1.50	3000	5.10	12000	11.28	
450	1.63	3100	5.18	13000	11.89	
500	1.77	3200	5.27	14000	12.50	
550	1.89	3300	5.36	15000	13.13	
600	2.01	3400	5.44	16000	13.74	
650	2.12	3500	5.52	17000	14.36	
700	2.24	3600	5.61	18000	14.97	
750	2.34	3700	5.69	19000	15.58	
800	2.43	3800	5.77	20000	16.19	
850	2.53	3900	5.85	30000	22.22	
900	2.62	4000	5.93	40000	28.30	
950	2.72	4100	6.01	50000	34.30	
1000	2.80	4200	6.08	60000	40.00	
1100	2.97	4300	6.15	70000	41.30	
1200	3.12	4400	6.22	80000	42.50	

Particulate Matter Emissions Standards for Process Equipment						
Process lbs/hr	Emissions lbs/hr	Process lbs/hr	Emissions lbs/hr	Process lbs/hr	Emissions lbs/hr	
1300	3.26	4500	6.30	90000	43.60	
1400	3.40	4600	6.37	100000	44.60	
1500	3.54	4700	6.45	120000	46.30	
1600	3.66	4800	6.52	140000	47.80	
1700	3.79	4900	6.60	160000	49.00	
1800	3.91	5000	6.67	200000	51.20	
1900	4.03	5500	7.03	1000000	69.00	
2000	4.14	6000	7.37	2000000	77.60	
2100	4.24	6500	7.71	6000000	92.70	
2200	4.34	7000	8.05			

Interpolation and extrapolation of emissions above a process weight of 6,000,000 pounds/ hour shall be accomplished by the use of this equation:

$$E = (55.0 \times P^{0.11}) - 40,$$

where: P = process weight in tons/ hour, and

E = emission rate in pounds/hour.

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.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 35

STATIONARY SOURCE TESTING AND MONITORING

Section 35-0010 Definitions

The definitions in LRAPA title 12, 29-0010, OAR 340-204-0100 and this section apply to this title. If the same term is defined in this section and LRAPA title 12 or OAR 340-204-0100 or 29-0010, the definition in this section applies to this title.

Sampling, Testing and Measurement

Section 35-0110 Applicability

Sections 35-0110 through 35-0150 apply to all stationary sources in Lane County. Stationary source includes portable sources that are required to have permits under title 37.

Section 35-0120 Program

- (1) As part of its coordinated program of air quality control and preventing and abating air pollution, LRAPA may:
 - (a) Require the owner or operator of a stationary source to determine the type, quantity, quality, and duration of the emissions from any air contamination source;
 - (b) Require full reporting in writing of all test procedures and signed by the person or persons responsible for conducting the tests;
 - (c) Require continuous monitoring of specified air contaminant emissions or parameters and periodic regular reporting of the results of such monitoring.
- (2) LRAPA may require an owner or operator of a source to provide emission testing facilities as follows:
 - (a) Sampling ports, safe sampling platforms, and access to sampling platforms adequate for test methods applicable to such source; and
 - (b) Utilities for sampling and testing equipment.
- (3) Testing must be conducted in accordance with the DEQ's Source Sampling Manual, the DEQ's Continuous Monitoring Manual, or an applicable EPA Reference Method unless LRAPA, if allowed under applicable federal requirements:
 - (a) Specifies or approves minor changes in methodology in specific cases;

- (b) Approves the use of an equivalent or alternative method as defined in title 12;
- (c) Waives the testing requirement because the owner or operator has satisfied LRAPA that the affected facility is in compliance with applicable requirements; or
- (d) Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors.

Section 35-0130 Stack Heights and Dispersion Techniques

- (1) 40 CFR parts 51.100(ff) through 51.100(kk), 51.118, 51.160 through 51.166, concerning stack heights and dispersion techniques, are adopted and incorporated herein. The federal rule generally prohibits the use of excessive stack height and certain dispersion techniques when calculating compliance with ambient air quality standards. The rule forbids neither the construction and actual use of excessively tall stacks, nor the use of dispersion techniques. It only forbids their use in noted calculations. The rule generally applies as follows: Stacks 65 meters high or greater that were constructed after December 31, 1970, and major modifications made after December 31, 1970 to existing plants with stacks 65 meters high or greater which were constructed before that date are subject to this rule. Certain stacks at federally owned, coal-fired steam electric generating units constructed under a contract awarded before February 8, 1974 are exempt. Any dispersion technique implemented after December 31, 1970 at any plant is subject to this rule. However, if the plant's total allowable emissions of sulfur dioxide are less than 5,000 tons per year, then certain dispersion techniques to increase final exhaust gas plume rise may be used when calculating compliance with ambient air quality standards for sulfur dioxide:
- (2) Where found in the federal rule, the following terms apply:
 - (a) "Reviewing agency" means DEQ, LRAPA, or EPA, as applicable;
 - (b) "Authority administering the State Implementation Plan" means DEQ, LRAPA, or EPA;
 - (c) The "procedures" referred to in 40 CFR 51.164 are LRAPA's Major NSR procedures (38-0010 through 38-0070 and 38-0050 through 38-0540 of LRAPA rules), and the review procedures for new, or modifications to, minor sources, at LRAPA's review procedures for new or modified minor sources (34-0200 to 34-0220, 38-0010 through 38-0038, or 38-0200 through 38-0270 and 38-0500 through 38-0540).
 - (d) "The state" or "state, or local control agency" as referred to in 40 CFR 51.118, means DEQ or LRAPA;
 - (e) "Applicable state implementation plan" and "plan" refer to the DEQ's or LRAPA's programs and rules, as approved by EPA, or any regulations promulgated by EPA (see 40 CFR part 52, subpart MM).

Section 35-0140 Methods

- (1) Any sampling, testing, or measurement performed pursuant to this title must conform to methods contained in the DEQ's Source Sampling Manual or to recognized applicable standard methods approved in advance by LRAPA.
- (2) LRAPA may approve an equivalent or alternative method as defined in title 12.

Section 35-0150 LRAPA Testing

Instead of asking for tests and sampling of emissions from the owner or operator of a source LRAPA may conduct such tests alone or in conjunction with the owner or operator. If LRAPA conducts the testing or sampling, the agency will provide a copy of the results to the owner or operator.

Compliance Assurance Monitoring

Section 35-0200 Purpose and Applicability

- (1) The purpose of 35-0200 through 35-0280 is to require, as part of the issuance of a permit under title V of the FCAA, improved or new monitoring at those emissions units where monitoring requirements do not exist or are inadequate to meet the requirements of 35-0200 through 35-0280. Except for backup utility units that are exempt under paragraph (2)(b), the requirements of 35-0200 through 35-0280 apply to a regulated pollutant-specific emissions unit at a major source that is required to obtain an LRAPA Title V Operating Permit if the unit meets all of the following criteria:
 - (a) The unit is subject to an emission limitation or standard for the applicable regulated pollutant (or a surrogate thereof), other than an emission limitation or standard that is exempt under paragraph (2)(a);
 - (b) The unit uses a control device to achieve compliance with any such emission limitation or standard; and
 - (c) The unit has potential pre-control device emissions of the applicable regulated pollutant that are equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source. For purposes of this subsection, "potential pre-control device emissions" has the same meaning as "potential to emit," as defined in title 12, except that emission reductions achieved by the applicable control device are not taken into account.
- (2) Exemptions:
 - (a) Exempt emission limitations or standards. The requirements of 35-0200 through 35-0280 do not apply to any of the following emission limitations or standards:
 - (A) Emission limitations or standards proposed by the Administrator after November 15, 1990 pursuant to section 111 or 112 of the FCAA;
 - (B) Stratospheric ozone protection requirements under title VI of the FCAA;

- (C) Acid Rain Program requirements pursuant to sections 404, 405, 406, 407(a), 407(b), or 410 of the FCAA;
 - (D) Emission limitations or standards or other applicable requirements that apply solely under an emissions trading program approved or promulgated by the Administrator under the FCAA that allows for trading emissions within a source or between sources;
 - (E) An emissions cap that meets the requirements specified in 40 CFR 70.4(b)(12), 71.6(a)(13)(iii), or title 42 (Stationary Source Plant Site Emission Limits);
 - (F) Emission limitations or standards for which a Title V Operating Permit specifies a continuous compliance determination method, as defined in title 12. The exemption does not apply if the applicable compliance method includes an assumed control device emission reduction factor that could be affected by the actual operation and maintenance of the control device. For example, a certain surface coating line is controlled by an incinerator whose continuous compliance is determined by calculating emissions on the basis of coating records and an assumed control device efficiency factor based on an initial performance test. In this example, 35-0200 through 35-0280 apply to the control device and capture system, but not to the remaining elements of the coating line, such as raw material usage.
- (b) Exemption for backup utility power emissions units. The requirements of 35-0200 through 35-0280 do not apply to a utility unit, as defined in 40 CFR 72.2, that is municipally owned if the owner or operator provides documentation in a Title V Operating Permit application that:
- (A) The utility unit is exempt from all monitoring requirements in 40 CFR part 75 including the appendices thereto;
 - (B) The utility unit is operated solely for providing electricity during periods of peak electrical demand or emergency situations and will be operated consistent with that purpose throughout the LRAPA Title V Operating Permit term. The owner or operator must provide historical operating data and relevant contractual obligations to document that this criterion is satisfied; and
 - (C) The actual emissions from the utility unit, based on the average annual emissions over the last three calendar years of operation or such shorter time period that is available for units with fewer than three years of operation, are less than 50 percent of the amount in tons per year required for a source to be classified as a major source and are expected to remain so.

Section 35-0210 Monitoring Design Criteria

- (1) General criteria. To provide a reasonable assurance of compliance with emission limitations or standards for the anticipated range of operations at a pollutant-specific emissions unit, monitoring under 35-0200 through 35-0280 must meet the following general criteria:
 - (a) The owner or operator must design the monitoring to obtain data for one or more indicators of emission control performance for the control device, any associated capture system and, if necessary to satisfy paragraph (1)(b), processes at a regulated pollutant-specific

emissions unit. Indicators of performance may include, but are not limited to, direct or predicted emissions, including visible emissions or opacity, process and control device parameters that affect control device and capture system efficiency or emission rates, or recorded findings of inspection and maintenance activities conducted by the owner or operator;

- (b) The owner or operator must establish an appropriate range or designated condition for the selected indicator such that operation within the ranges provides a reasonable assurance of ongoing compliance with emission limitations or standards for the anticipated range of operating conditions. Such range or condition must reflect the proper operation and maintenance of the control device and associated capture system, in accordance with applicable design properties, for minimizing emissions over the anticipated range of operating conditions at least to the level required to achieve compliance with the applicable requirements. The reasonable assurance of compliance will be assessed by maintaining performance within the indicator range or designated condition. The ranges must be established in accordance with the design and performance requirements in this rule and documented in accordance with the requirements in 35-0220. If necessary to assure that the control device and associated capture system can satisfy this criterion, the owner or operator must monitor appropriate process operational parameters such as total throughput where necessary to stay within the rated capacity for a control device. In addition, unless specifically stated otherwise by an applicable requirement, the owner or operator must monitor indicators to detect any bypass of the control device or capture system to the atmosphere, if such bypass can occur based on the design of the regulated pollutant-specific emissions unit;

- (c) The design of indicator ranges or designated conditions may be:

- (A) Based on a single maximum or minimum value if appropriate, e.g., maintaining condenser temperatures a certain number of degrees below the condensation temperature of the applicable compound being processed or at multiple levels that are relevant to distinctly different operating conditions e.g., high versus low load levels;
- (B) Expressed as a function of process variables, e.g., an indicator range expressed as minimum to maximum pressure drop across a venturi throat in a particulate control scrubber;
- (C) Expressed as maintaining the applicable parameter in a particular operational status or designated condition, e.g., position of a damper controlling gas flow to the atmosphere through a by-pass duct;
- (D) Established as interdependent between more than one indicator.

- (2) Performance criteria. The owner or operator must design the monitoring to meet the following performance criteria:

- (a) Specifications that provide for obtaining data that are representative of the emissions or parameters being monitored such as detector location and installation specifications, if applicable;

- (b) For new or modified monitoring equipment, verification procedures to confirm the operational status of the monitoring prior to the date by which the owner or operator must conduct monitoring under 35-0200 through 35-0280 as specified in 35-0250(1). The owner or operator must consider the monitoring equipment manufacturer's requirements or recommendations for installation, calibration, and start-up operation;
- (c) Quality assurance and control practices that are adequate to ensure the continuing validity of the data. The owner or operator must consider manufacturer recommendations or requirements applicable to the monitoring in developing appropriate quality assurance and control practices;
- (d) Specifications for the frequency of the monitoring, the data collection procedures that will be used (e.g., computerized data acquisition and handling, alarm sensor, or manual log entries based on gauge readings), and, if applicable, the period over which discrete data points will be averaged for the purpose of determining whether an excursion or exceedance has occurred:
 - (A) At a minimum, the owner or operator must design the period over which data are obtained and, if applicable, averaged consistent with the characteristics and typical variability of the regulated pollutant-specific emissions unit including the control device and associated capture system. Such intervals must be commensurate with the time period over which a change in control device performance that would require actions by owner or operator to return operations within normal ranges or designated conditions is likely to be observed;
 - (B) For all regulated pollutant-specific emissions units with the potential to emit, calculated including the effect of control devices, the applicable regulated air pollutant in an amount equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source, for each parameter monitored, the owner or operator must collect four or more data values equally spaced over each hour and average the values, as applicable, over the applicable averaging period as determined in accordance with subparagraph (2)(d)(A). LRAPA may approve a reduced data collection frequency based on information presented by the owner or operator concerning the data collection mechanisms available for a particular parameter for the particular regulated pollutant-specific emissions unit e.g., integrated raw material or fuel analysis data, noninstrumental measurement of waste feed rate or visible emissions, use of a portable analyzer or an alarm sensor;
 - (C) For other regulated pollutant-specific emissions units, the frequency of data collection may be less than the frequency specified in subparagraph (2)(d)(B), but the monitoring must include some data collection at least once per 24-hour period e.g., a daily inspection of a carbon adsorber operation in conjunction with a weekly or monthly check of emissions with a portable analyzer.
- (3) Evaluation factors. In designing monitoring to meet the requirements in subsections (1) and (2), the owner or operator must take into account site-specific factors including the applicability of existing monitoring equipment and procedures, the ability of the monitoring to account for process and control device operational variability, the reliability and latitude built into the control technology, and the level of actual emissions relative to the compliance limitation.

(4) Special criteria for the use of continuous emission, opacity or predictive monitoring systems:

- (a) If a continuous emission monitoring system (CEMS), continuous opacity monitoring system (COMS), or predictive emission monitoring system (PEMS) is required by other authority under the FCAA or state or local law, the owner or operator must use such system to satisfy the requirements of 35-0200 through 35-0280;
- (b) The use of a CEMS, COMS, or PEMS that satisfies any of the following monitoring requirements satisfies the general design criteria in subsections (1) and (2). However, a COMS may be subject to the criteria for establishing indicator ranges under subsection (1):
 - (A) Section 51.214 and Appendix P of 40 CFR part 51;
 - (B) Section 60.13 and Appendix B of 40 CFR part 60;
 - (C) Section 63.8 and any applicable performance specifications required pursuant to the applicable subpart of 40 CFR part 63;
 - (D) 40 CFR part 75 (July 1, 2000);
 - (E) Subpart H and Appendix IX of 40 CFR part 266; or
 - (F) If an applicable requirement does not otherwise require compliance with the requirements listed in subparagraphs (4)(b)(A) through (E), comparable requirements and specifications established by LRAPA.
- (c) The owner or operator must design the monitoring system subject to subsection (4) to:
 - (A) Allow for reporting exceedances (or excursions if applicable to a COMS used to assure compliance with a particulate matter standard), consistent with any period for reporting of exceedances in an underlying requirement. If an underlying requirement does not contain a provision for establishing an averaging period for the reporting of exceedances or excursions, the criteria used to develop an averaging period in paragraph (2)(d) applies; and
 - (B) Provide an indicator range consistent with subsection (1) for a COMS used to assure compliance with a particulate matter standard. If an opacity standard applies to the regulated pollutant-specific emissions unit, such limit may be used as the appropriate indicator range unless the opacity limit fails to meet the criteria in subsection (1) after considering the type of control device and other site-specific factors applicable to the regulated pollutant-specific emissions unit.

Section 35-0220 Submittal Requirements

- (1) The owner or operator must submit to LRAPA monitoring plans that satisfy the design requirements in 35-0210. The submission must include the following information:
 - (a) The indicators to be monitored to satisfy 35-0210(1)(a) and (b);

- (b) The ranges or designated conditions for such indicators, or the process by which such indicator ranges or designated conditions will be established;
 - (c) The performance criteria for the monitoring to satisfy 35-0210(2); and
 - (d) If applicable, the indicator ranges and performance criteria for a CEMS, COMS or PEMS pursuant to 35-0210(4).
- (2) As part of the information submitted, the owner or operator must submit a justification for the proposed elements of the monitoring plans. If the performance specifications proposed to satisfy 35-0210(2)(b) or (c) include differences from manufacturer recommendations, the owner or operator must explain the reasons for the differences. The owner or operator also must submit any data supporting the justification and may refer to generally available sources of information used to support the justification such as generally available air pollution engineering manuals, or EPA or LRAPA publications on appropriate monitoring for various types of control devices or capture systems. To justify the appropriateness of the monitoring elements proposed, the owner or operator may rely in part on existing applicable requirements that establish the monitoring for the applicable regulated pollutant-specific emissions unit or a similar unit. If an owner or operator relies on presumptively acceptable monitoring, no further justification for the appropriateness of that monitoring should be necessary other than an explanation of the applicability of such monitoring to the unit in question, unless data or information is brought forward to rebut the assumption. Presumptively acceptable monitoring includes:
- (a) Presumptively acceptable or required monitoring approaches, established by LRAPA in a rule that constitutes part of the applicable implementation plan required pursuant to title I of the Act, that are designed to achieve compliance with 35-0200 through 35-0280 for particular regulated pollutant-specific emissions units;
 - (b) Continuous emission, opacity, or predictive emission monitoring systems that satisfy applicable monitoring requirements and performance specifications contained in 35-0210(d);
 - (c) Excepted or alternative monitoring methods allowed or approved pursuant to 40 CFR part 75;
 - (d) Monitoring included for standards exempt from 35-0200 through 35-0280 pursuant to 35-0200(2)(a)(A) through (F) to the extent such monitoring is applicable to the performance of the control device and associated capture system for the regulated pollutant-specific emissions unit; and
 - (e) Presumptively acceptable monitoring methods identified in guidance by EPA.
- (3)(a) Except as provided in subsection (4), the owner or operator must submit control device and process and capture system, if applicable operating parameter data obtained during the conduct of the applicable compliance or performance test conducted under conditions specified by the applicable rule. If the applicable rule does not specify testing conditions or only partially specifies test conditions, the performance test generally must be conducted under conditions representative of maximum emissions potential under anticipated operating conditions at the regulated pollutant-specific emissions unit. Such data may be

supplemented by engineering assessments and manufacturer's recommendations to justify the indicator ranges (or, if applicable, the procedures for establishing such indicator ranges). Emission testing is not required to be conducted over the entire indicator range or range of potential emissions;

- (b) The owner or operator must document that no changes to the regulated pollutant-specific emissions unit, including the control device and capture system, have taken place that could result in a significant change in the control system performance or the selected ranges or designated conditions for the indicators to be monitored since the performance or compliance tests were conducted.
- (4) If existing data from unit-specific compliance or performance testing specified in subsection (3) are unavailable, the owner or operator:
- (a) Must submit a test plan and schedule for obtaining such data in accordance with subsection (5); or
 - (b) May submit indicator ranges (or procedures for establishing indicator ranges) that rely on engineering assessments and other data, if the owner or operator demonstrates that factors specific to the type of monitoring, control device, or pollutant-specific emissions unit make compliance or performance testing unnecessary to establish indicator ranges at levels that satisfy the criteria in 35-0210(1).
- (5) If the monitoring plans submitted by the owner or operator require installation, testing, or other necessary activities before conducting the monitoring for purposes of 35-0200 through 35-0280, the owner or operator must include an implementation plan and schedule for installing, testing and performing any other appropriate activities before conducting the monitoring. The implementation plan and schedule must provide for conducting the monitoring as expeditiously as practicable after LRAPA approves the monitoring plans in the LRAPA Title V Operating Permit pursuant to 35-0240. In no case may the schedule for completing installation and beginning operation of the monitoring exceed 180 days after approval of the permit.
- (6) If a control device is common to more than one regulated pollutant-specific emissions unit, the owner or operator may submit monitoring plans for the control device and identify the regulated pollutant-specific emissions units affected and any process or associated capture device conditions that must be maintained or monitored in accordance with 35-0210(1) rather than submit separate monitoring plans for each regulated pollutant-specific emissions unit.
- (7) If a single regulated pollutant-specific emissions unit is controlled by more than one control device that is similar in design and operation, the owner or operator may submit monitoring plans that apply to all the control devices and identify the control devices affected and any process or associated capture device conditions that must be maintained or monitored in accordance with 35-0210(1) rather than submit a separate description for each control device.

Section 35-0230 Deadlines for Submittals

- (1) Large regulated pollutant-specific emissions units. For all regulated pollutant-specific emissions units with the potential to emit the applicable regulated air pollutant in an amount equal to or greater than 100 percent of the amount, in tons per year, required for a source to be

classified as a major source, the owner or operator must submit the information required under 35-0220 at the following times:

- (a) The owner or operator must submit information as part of an application for an initial LRAPA Title V Operating Permit if, by that date, the application either:
 - (A) Has not been filed, or
 - (B) Has not yet been determined to be complete by LRAPA.
- (b) The owner or operator must submit information as part of an application for a significant permit revision under OAR 340-218-0180, but only with respect to those regulated pollutant-specific emissions units for which the proposed permit revision applies;
- (c) The owner or operator must submit any information not submitted under the deadlines set forth in paragraphs (1)(a) and (b) as part of the application for the renewal of an LRAPA Title V Operating Permit.
- (2) Other regulated pollutant-specific emissions units. For all other regulated pollutant-specific emissions units subject to 35-0220 through 35-0280 and not subject to subsection (1), the owner or operator must submit the information required under 35-0220 as part of an application for a renewal of an LRAPA Title V Operating Permit.
- (3) A permit reopening to require the submittal of information under this rule is not required by OAR 340-218-0200(1)(a)(A). If, however, an LRAPA Title V Operating Permit is reopened for cause by EPA or LRAPA pursuant to OAR 340-218-0200(1)(a)(C), (D), or (E), the applicable agency may require the submittal of information under this rule for those pollutant-specific emissions units that are subject to 35-0200 through 35-0280 and that are affected by the permit reopening.
- (4) Until LRAPA approves monitoring plans that satisfy the requirements of 35-0200 through 35-0280, the owner or operator is subject to the requirements of OAR 340-218-0050(3)(a)(C).

Section 35-0240 Approval of Monitoring Plans

- (1) Based on an application that includes the information submitted in accordance with 35-0230, LRAPA will approve the monitoring plans submitted by the owner or operator by confirming that the plans satisfy the requirements in 35-0210.
- (2) LRAPA may condition its approval on the owner or operator collecting additional data on the indicators to be monitored for a regulated pollutant-specific emissions unit, including required compliance or performance testing, to confirm that the monitoring will provide data sufficient to satisfy the requirements of 35-0200 through 35-0280 and to confirm the appropriateness of an indicator range or designated condition proposed to satisfy 35-0210(1)(b) and (c) and consistent with the schedule in 35-0220(4).
- (3) If LRAPA approves the proposed monitoring, LRAPA will establish one or more permit terms or conditions that specify the required monitoring in accordance with OAR 340-218-0050(3)(a). At a minimum, the permit will specify:

- (a) The approved monitoring approach that includes all of the following:
 - (A) The indicator to be monitored (such as temperature, pressure drop, emissions, or similar parameter);
 - (B) The means or device to be used to measure the indicator (such as temperature measurement device, visual observation, or CEMS); and
 - (C) The performance requirements established to satisfy 35-0210(2) or (4), as applicable.
- (b) The means by which the owner or operator will define an exceedance or excursion for purposes of responding to and reporting exceedances or excursions under 35-0250 and 35-0260. The permit will specify the level at which an excursion or exceedance will be deemed to occur, including the appropriate averaging period associated with such exceedance or excursion. For defining an excursion from an indicator range or designated condition, the permit may either include the specific value or condition at which an excursion occurs, or the specific procedures that will be used to establish that value or condition. If the latter, the permit will specify appropriate notice procedures for the owner or operator to notify LRAPA upon any establishment or reestablishment of the value;
- (c) The obligation to conduct the monitoring and fulfill the other obligations specified in 35-0250 through 35-0270;
- (d) If appropriate, a minimum data availability requirement for valid data collection for each averaging period, and, if appropriate, a minimum data availability requirement for the averaging periods in a reporting period.
- (4) If the monitoring proposed by the owner or operator requires installation, testing or final verification of operational status, the LRAPA Title V Operating Permit will include an enforceable schedule with appropriate milestones for completing such installation, testing, or final verification consistent with the requirements in 35-0220(5).
- (5) If LRAPA disapproves the proposed monitoring, the following applies:
 - (a) The draft or final permit will include, at a minimum, monitoring that satisfies the requirements of OAR 340-218-0050(3)(a)(C);
 - (b) The draft or final permit will include a compliance schedule for the owner or operator to submit monitoring plans that satisfy 35-0210 and 35-0220. In no case may the owner or operator submit revised monitoring more than 180 days from the date of issuance of the draft or final permit; and
 - (c) If the owner or operator does not submit the monitoring plans in accordance with the compliance schedule contained in the draft of final permit or if LRAPA disapproves the proposed monitoring plans, the owner or operator is not in compliance with 35-0200 through 35-0280, unless the source owner or operator successfully challenges the disapproval.

Section 35-0250 Operation of Approved Monitoring

- (1) Commencement of operation. The owner or operator must conduct the monitoring required under 35-0200 through 35-0280 upon issuance of an LRAPA Title V Operating Permit that includes such monitoring, or by any later date specified in the permit pursuant to 35-0240(4).
- (2) Proper maintenance. The owner or operator must at all times maintain the monitoring equipment, including but not limited to, maintaining necessary parts for routine repairs of the monitoring equipment.
- (3) Continued operation. Except for monitoring malfunctions, associated repairs, and required quality assurance or control activities including, as applicable, calibration checks and required zero and span adjustments, the owner or operator must conduct all monitoring in continuous operation or must collect data at all required intervals at all times that the regulated pollutant-specific emissions unit is operating. Data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities cannot be used for purposes of 35-0200 through 35-0280, including data averages and calculations, or fulfilling a minimum data availability requirement, if applicable. The owner or operator must use all the data collected during all other periods in assessing the operation of the control device and associated control system. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.
- (4) Response to excursions or exceedances:
 - (a) Upon detecting an excursion or exceedance, the owner or operator must restore operation of the regulated pollutant-specific emissions unit including the control device and associated capture system to its normal or usual manner of operation as expeditiously as practicable in accordance with good air pollution control practices for minimizing emissions. The response must include minimizing the period of any startup, shutdown or malfunction and taking any necessary corrective actions to restore normal operation and prevent the likely recurrence of the cause of an excursion or exceedance other than those caused by excused startup or shutdown conditions. Such actions may include initial inspection and evaluation, recording that operations returned to normal without operator action, such as through response by a computerized distribution control system, or any necessary follow-up actions to return operation to within the indicator range, designated condition, or below the applicable emission limitation or standard, as applicable;
 - (b) Determination of whether the owner or operator has used acceptable procedures in response to an excursion or exceedance will be based on information available, which may include but is not limited to, monitoring results, review of operation and maintenance procedures and records, and inspection of the control device, associated capture system, and the process;
 - (c) Documentation of need for improved monitoring. After LRAPA approves the monitoring plans under 35-0200 through 35-0280, if the owner or operator identifies a failure to achieve compliance with an emission limitation or standard for which the approved monitoring did not indicate an excursion or exceedance while providing valid data, or if the results of compliance or performance testing document a need to modify the existing indicator ranges or designated conditions, the owner or operator must promptly notify LRAPA and, if

necessary, submit a proposed modification to the LRAPA Title V Operating Permit to address the necessary monitoring changes. Such a modification may include, but is not limited to, reestablishing indicator ranges or designated conditions, modifying the frequency of conducting monitoring and collecting data, or the monitoring of additional parameters.

Section 35-0260 Quality Improvement Plan (QIP) Requirements

- (1) Based on the results of a determination made under 35-0250(4)(b), the Administrator or LRAPA may require the owner or operator to develop and implement a QIP. Consistent with 35-0240(3)(c), the LRAPA Title V Operating Permit may specify an appropriate threshold, such as an accumulation of exceedances or excursions exceeding 5 percent duration of a pollutant-specific emissions unit's operating time for a reporting period, for requiring the implementation of a QIP. The threshold may be set at a higher or lower percent or may rely on other criteria for purposes of indicating whether a regulated pollutant-specific emissions unit is being maintained and operated in a manner consistent with good air pollution control practices.
- (2) Elements of a QIP:
 - (a) The owner or operator must maintain a written QIP, if required, and have it available for inspection;
 - (b) The plan initially must include procedures for evaluating the control performance problems and, based on the results of the evaluation procedures, the owner or operator must modify the plan to include procedures for conducting one or more of the following actions, as appropriate:
 - (A) Improved preventive maintenance practices;
 - (B) Process operation changes;
 - (C) Appropriate improvements to control methods;
 - (D) Other steps appropriate to correct control performance;
 - (E) More frequent or improved monitoring only in conjunction with one or more steps under subparagraphs (A) through (D) above.
- (3) If a QIP is required, the owner or operator must develop and implement a QIP as expeditiously as practicable and notify LRAPA if the period for completing the improvements contained in the QIP exceeds 180 days from the date on which the need to implement the QIP was determined.
- (4) Following implementation of a QIP, upon any subsequent determination pursuant to 35-0250(4)(b) the Administrator or LRAPA may require that an owner or operator make reasonable changes to the QIP if the QIP is found to have:
 - (a) Failed to address the cause of the control device performance problems; or

- (b) Failed to provide adequate procedures for correcting control device performance problems as expeditiously as practicable in accordance with good air pollution control practices for minimizing emissions.
- (5) Implementation of a QIP does not excuse the owner or operator of a source from compliance with any existing emission limitation or standard, or any existing monitoring, testing, reporting or recordkeeping requirement that may apply under federal, state, or local law, or any other applicable requirements under the FCAA.

Section 35-0270 Reporting and Recordkeeping Requirements

(1) General reporting requirements:

- (a) On and after the date specified in 35-0250(1) by which the owner or operator must conduct monitoring that meets the requirements of 35-0200 through 35-0280, the owner or operator must submit monitoring reports to LRAPA in accordance with OAR 340-218-0050(3)(c);
- (b) A report for monitoring under OAR 340-218-0200 through 340-218-0280 must include, at a minimum, the information required under OAR 340-218-0050(3)(c) and the following information, as applicable:
 - (A) Summary information on the number, duration and cause including unknown cause of excursions or exceedances, as applicable, and the corrective actions taken;
 - (B) Summary information on the number, duration and cause including unknown cause for monitor downtime incidents, other than downtime associated with zero and span or other daily calibration checks; and
 - (C) A description of the actions taken to implement a QIP during the reporting period as specified in 35-0260. Upon completion of a QIP, the owner or operator must include in the next summary report documentation that the implementation of the plan has been completed and has reduced the likelihood of similar levels of excursions or exceedances occurring.

(2) General recordkeeping requirements:

- (a) The owner or operator must comply with the recordkeeping requirements specified in OAR 340-218-0050(3)(b). The owner or operator must maintain records of monitoring data, performance data, corrective actions taken, any written quality improvement plan required pursuant to 35-0260 and any activities undertaken to implement a quality improvement plan, and other supporting information required by 35-0200 through 35-0280 such as data used to document the adequacy of monitoring, or records of monitoring maintenance or corrective actions;
- (b) Instead of paper records, the owner or operator may maintain records on alternative media, such as microfilm, computer files, magnetic tape disks, or microfiche, if the use of such alternative media allows for expeditious inspection and review and does not conflict with other applicable recordkeeping requirements.

Section 35-0280 Savings Provisions

Nothing in 35-0200 through 35-0280:

- (1) Excuses the owner or operator of a source from complying with any existing emission limitation or standard, or with any existing monitoring, testing, reporting, or recordkeeping requirement that may apply under federal, state, or local law, or any other applicable requirements under the FCAA. The requirements of 35-0200 through 35-0280 may not be used to justify the approval of monitoring less stringent than the monitoring required under separate legal authority. Nor are they intended to establish minimum requirements for the purpose of determining the monitoring to be imposed under separate authority under the FCAA, including monitoring in permits issued pursuant to title I of the FCAA.;
- (2) Restricts or abrogates the authority of the Administrator or LRAPA to impose additional or more stringent monitoring, recordkeeping, testing, or reporting requirements on any owner or operator of a source under any provision of the FCAA, including but not limited to sections 114(a)(1) and 504(b), or state law, as applicable;
- (3) Restricts or abrogates the authority of the Administrator or LRAPA to take any enforcement action under the FCAA for any violation of an applicable requirement or of any person to take action under section 304 of the FCAA.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 36

EXCESS EMISSIONS

Following the reporting and recordkeeping prescribed herein or approval of procedures for startup, shutdown or maintenance shall not absolve sources from enforcement action for conditions resulting in excess emissions.

Section 36-001 General Policy and Discussion

- (1) Emissions of air contaminants in excess of applicable standards or permit conditions are unauthorized and are subject to enforcement action, pursuant to 36-010 through 36-030. These rules apply to any source which emits air contaminants in violation of any applicable air quality rule or permit condition, including but not limited to excess emissions resulting from the breakdown of air pollution control devices or operating equipment, process upset, startup, shutdown, or scheduled maintenance. Sources that do not emit air contaminants in excess of any applicable air quality rule or permit condition are not subject to the recordkeeping and reporting requirements in title 36. Emissions in excess of applicable standards are not excess emissions if the standard is in an NSPS or NESHAP and the NSPS or NESHAP exempts startups, shutdowns and malfunctions as defined in the applicable NSPS or NESHAP.
- (2) The purpose of these rules is to:
 - (a) Require that, where applicable, the owner or operator immediately report all excess emissions to LRAPA;
 - (b) Require owner or operator to submit information and data regarding conditions which resulted or could result in excess emissions;
 - (c) Identify criteria for LRAPA to use in determining whether it will take enforcement action against an owner or operator for an excess emission; and
 - (d) Provide owners and operators of sources with LRAPA Title V Operating Permits an affirmative defense to a penalty action when noncompliance with technology-based limits is due to an emergency pursuant to 36-040.

Section 36-005 Definitions

The following definitions are relevant for the purposes of title 36, only. Additional definitions can be found in title 12, "Definitions."

- (4) "Large Source", as used in this title, means any stationary source required to maintain a Title V Operating Permit or whose actual emissions or potential controlled emissions while operating full time at the design capacity are equal to or exceed 100 tons per year of any regulated air pollutant other than GHG.
- (7) "Small Source" means any stationary source with a Basic, General, Simple or Standard ACDP.

Section 36-010 Planned Startup and Shutdown

- (1) This section applies to any source where startup or shutdown of a production process or system may result in excess emissions and:
 - (a) Which is a major source; or
 - (b) Which is in a non-attainment or maintenance area for the regulated pollutant which may constitute excess emissions; or
 - (c) From which LRAPA requires the application in subsection (2).
- (2) The owner or operator must obtain prior LRAPA authorization of startup and shutdown procedures. The owner or operator must submit to LRAPA a written application for approval of new procedures or modifications to existing procedures. The application must be submitted in time for LRAPA to receive it at least seventy-two (72) hours prior to the first occurrence of a startup or shutdown event to which the procedures apply. The application must:
 - (a) Explain why the excess emissions during startup and shutdown will not be avoidable;
 - (b) Identify the specific production process or system causing the excess emissions;
 - (c) Identify the nature of the air contaminants likely to be emitted, and estimate the amount and duration of the excess emissions; and
 - (d) Identify specific procedures to be followed that will minimize excess emissions at all times during startup and shutdown.
- (3) LRAPA will approve the procedures if it determines that they are consistent with good pollution control practices, will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The owner or operator must record all excess emissions in the excess emissions log as required in 36-025(3). Approval of the procedures does not shield the owner or operator from an enforcement action, but LRAPA in determining whether a penalty action is appropriate will consider whether the procedures were followed.
- (4) Once LRAPA approves startup/shutdown procedures, the owner or operator does not have to notify LRAPA of a planned startup or shutdown event unless it results in excess emissions.

- (5) When notice is required by subsection (4), it must be made in accordance with 36-020(1)(a).
- (6) The owner or operator is subject to the requirements under All Other Excess Emissions in 36-020 if the owner or operator fails to obtain LRAPA approval of startup and shutdown procedures in accordance with subsection (2).
- (7) LRAPA may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.
- (8) No startup or shutdown that may result in excess emissions associated with the approved procedures in subsection (3) are allowed during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove advisory period within areas designated by LRAPA as PM_{2.5} or PM₁₀ nonattainment areas.

Section 36-015 Scheduled Maintenance

- (1) If the owner or operator anticipates that scheduled maintenance of air contaminant sources or air pollution control devices may result in excess emissions, the owner or operator must obtain prior LRAPA authorization of procedures that will be used to minimize excess emissions. Application for approval of procedures associated with scheduled maintenance shall be submitted and received by LRAPA in writing at least seventy-two (72) hours prior to the event, and shall include the following:
 - (a) The reasons explaining the need for maintenance, including but not limited to: why the maintenance activity is necessary; why it would be impractical to shut down the source operation during the maintenance activity; if applicable, why air pollution control devices must be by-passed or operated at reduced efficiency during the maintenance activity; and why the excess emissions could not be avoided through better scheduling for maintenance or through better operation and maintenance practices;
 - (b) Identification of the specific production or emission control device or system to be maintained;
 - (c) Identification of the nature of the air contaminants likely to be emitted during the maintenance period, and the estimated amount and duration of the excess emissions, including measures such as the use of overtime labor and contract services and equipment that will be taken to minimize the length of the maintenance period; and
 - (d) Identification of specific procedures to be followed which will minimize excess emissions at all times during the scheduled maintenance.
- (2) LRAPA will approve the procedures if it determines that they are consistent with good pollution control practices, will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The owner or operator must record all excess emissions in the excess emissions log as required in 36-025(3). Approval of the above procedures does not shield the owner or operator from an enforcement action, but LRAPA will consider whether the procedures were followed in determining whether an enforcement action is appropriate.

- (3) Once maintenance procedures are approved, owners or operators are not be required to notify LRAPA of a scheduled maintenance event unless it results in excess emissions.
- (4) When required by subsection (3), notification must be made in accordance with 36-020(1)(a).
- (5) LRAPA may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.
- (6) No scheduled maintenance associated with the approved procedures in subsection (2) that is likely to result in excess emissions may occur during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove advisory period, in areas determined by LRAPA as PM_{2.5} or PM₁₀ nonattainment areas.
- (7) The owner or operator is subject to the requirements under All Other Excess Emissions in 36-020 if the owner or operator fails to obtain LRAPA approval of maintenance procedures in accordance with section (1).

Section 36-020 All Other Excess Emissions

- (1) For all other excess emissions not addressed in 36-010, 36-015, or 36-040, the following requirements apply:
 - (a) The owner or operator of a large source, as defined by 36-005(4), must immediately notify LRAPA the first onset per calendar day of any excess emissions event, unless otherwise specified by a permit condition.
 - (b) The owner or operator, of a small source, as defined by 36-005(7), need not immediately notify LRAPA of excess emissions events unless otherwise required by permit condition, written notice by LRAPA, or if the excess emission is of a nature that could endanger public health.
 - (c) Additional reporting and recordkeeping requirements are specified in 36-025.
- (2) During any period of excess emissions, LRAPA may require that an owner or operator immediately reduce or cease operation of the equipment or facility until such time as the condition causing the excess emissions has been corrected or brought under control. LRAPA will consider the following factors:
 - (a) Whether potential risk to the public or environment exists;
 - (b) Whether any Air Pollution Alert, Warning, Emergency, or yellow or red woodstove curtailment period exists;
 - (c) Whether shutdown could result in physical damage to the equipment or facility, or cause injury to employees; or

- (d) Whether continued excess emissions were avoidable.
- (3) If there is an on-going period of excess emissions, the owner or operator must cease operation of the equipment or facility no later than forty-eight (48) hours after the beginning of the excess emission period, if the condition causing the emissions is not corrected within that time. The owner or operator does not have to cease operation if LRAPA approves procedures to minimize excess emissions until the condition causing the excess emissions is corrected or brought under control. Approval of these procedures will be based on the following information supplied to the LRAPA:
 - (a) The reasons why the condition causing the excess emissions cannot be corrected or brought under control, including equipment availability and difficulty of repair or installation; and
 - (b) Information as required in 36-010(2)(b), (c) and (d) or 36-015(1)(b), (c), and (d) as appropriate.
- (4) LRAPA will approve the procedures if it determines that they are consistent with good pollution control practices, will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The owner or operator must record all excess emissions in the excess emission log as required in 36-025(3). At any time during the period of excess emissions LRAPA may require the owner or operator to cease operation of the equipment or facility in accordance with subsection (2). Approval of these procedures does not shield the owner or operator from an enforcement action, but LRAPA will consider whether the procedures were followed in determining whether enforcement action is appropriate.

Section 36-025 Reporting and Recordkeeping Requirements

- (1) For any excess emissions event at a source with an LRAPA Title V Operating Permit and for any other source as required by permit, the owner or operator shall, submit a written excess emission report for each calendar day of the event. If required, this report shall be submitted within fifteen (15) days of the date of the event and shall include the following:
 - (a) The date and time of the beginning of the excess emissions event and the duration or best estimate of the time until return to normal operation;
 - (b) The date and time the owner or operator notified LRAPA of the event;
 - (c) The equipment involved;
 - (d) Whether the event occurred during startup, shutdown, maintenance, or as a result of a breakdown, malfunction, or emergency;
 - (e) Steps taken to mitigate emissions and corrective actions taken;
 - (f) The magnitude and duration of each occurrence of excess emissions during the course of an event and the increase over normal rates or concentrations as determined by

continuous monitoring or a best estimate, supported by operating data and calculations;

- (g) The final resolution of the cause of the excess emissions; and
 - (h) Where applicable, evidence supporting any claim that emissions in excess of technology-based limits were due to an emergency pursuant to 36-040.
- (2) Based on the severity of the event, LRAPA may specify a shorter time period for report submittal.
 - (3) All owners or operators must keep an excess emissions log of all planned and unplanned excess emissions. The log shall include all pertinent information as required in subsection (1) and shall be kept by the owner or operator for five (5) calendar years.
 - (4) At each annual reporting period specified in a permit, or sooner if LRAPA requires, the owner or operator must submit:
 - (a) A copy of the excess emission log entries for the reporting period, unless previously submitted in accordance with subsection (1); and
 - (b) Where applicable, current procedures to minimize emissions during startup, shutdown, or maintenance, as outlined in 36-010 and 36-015. The owner or operator must specify in writing whether these procedures are new, modified, or have already been approved by LRAPA.

Section 36-030 Enforcement Action Criteria

In determining whether to take enforcement action for excess emissions, LRAPA considers, based upon information submitted by the owner or operator, the following:

- (1) Whether the owner or operator met the notification, recordkeeping, and reporting requirements of 36-020 and 36-025;
- (2) Whether during the period of the excess emissions event the owner or operator took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other permit requirements;
- (3) Whether the owner or operator took appropriate remedial action;
- (4) Whether the owner or operator followed procedures approved by LRAPA for startup, shutdown, or scheduled maintenance at the time of the excess emissions;
- (5) Whether any federal New Source Performance Standard (NSPS) or National Emission Standard for Hazardous Air Pollutants (NESHAP) applies and whether the excess emission event caused a violation of the federal standard;
- (6) Whether the excess emissions event was due to an emergency; and

- (7) Whether the event was due to the owner's or operator's negligent or intentional operation. For LRAPA to find that an incident of excess emissions is not due to the owner's or operator's negligent or intentional operation, LRAPA may ask the owner or operator to demonstrate that all of the following conditions were met:
- (a) The process or handling equipment and the air pollution control device were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
 - (b) Repairs or corrections were made in an expeditious manner when the operator(s) knew or should have known that emission limits were being or were likely to be exceeded. Expeditious manner may include such activities as use of overtime labor or contract labor and equipment that would reduce the amount and duration of excess emissions; and
 - (c) The event was not one in a recurring pattern of incidents that indicate inadequate design, operation, or maintenance.

Section 36-040 Emergency as an Affirmative Defense for Title V Permitted Sources

- (1) An emergency constitutes an affirmative defense to penalty actions due to non-compliance with technology-based emission limits in an LRAPA Title V Operating Permit if the owner or operator notifies LRAPA immediately of the emergency condition and provides and demonstrates through properly signed, contemporaneous operating logs, excess emission logs, or other relevant evidence that:
 - (a) An emergency occurred and caused the excess emissions;
 - (b) The cause of the emergency;
 - (c) The facility was at the time being properly operated;
 - (d) During the occurrence of the emergency, the owner or operator took all reasonable steps to minimize levels of excess emissions; and
 - (e) The notification to LRAPA contained a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.
- (2) The owner or operator seeking to establish the occurrence of an emergency has the burden of proof by a preponderance of the evidence.
- (3) This provision is in addition to any emergency or any other excess emissions provisions contained in any applicable requirement.

LANE REGIONAL AIR PROTECTION AGENCY

TABLE 1 - SECTION 37-8010

ACTIVITIES AND SOURCES

The following source categories must obtain a permit as required by Section 37-0020 Applicability and Jurisdiction

Part A: Basic ACDP

1. Reserved.
2. Boilers and other fuel-burning equipment (with or without #2 diesel oil back-up^{***}) of 2.0 or more MMBTU but less than 10 MMBTU/hour heat input.
3. Concrete manufacturing including redimix and CTB, both stationary and portable, more than 5,000 but less than 25,000 cubic yards per year output.
4. Crematory incinerators with less than 20 tons/year material input.
5. Prepared feeds for animals and fowl and associated grain elevators more than 1,000 tons/year but less than 10,000 tons/year throughput.
6. Rock, concrete or asphalt crushing both portable and stationary more than 5,000 tons/year but less than 25,000 tons/year crushed.
7. Surface coating operations whose actual or expected usage of coating materials is greater than 250 gallons/year, but less than 250 gallons/month, excluding sources that exclusively use non-VOC and non-HAP containing coatings.
8. Sources not elsewhere classified with actual emissions of more than 1 ton/year VOC and/or HAP.
9. Sawmills and/or planing mills and/or millwork and/or wood furniture and fixtures manufacturing and/or plywood manufacturing and/or veneer drying of more than 5,000 but less than 25,000 board feet/maximum 8 hour finished product.
10. Coffee roasting, roasting less than 30 green tons per year.
11. Motor vehicle, mobile equipment and miscellaneous surface coating operations subject to an area source NESHAP under title 44 and using less than 20 gallons of coating per year excluding motor vehicle surface coating operations registered pursuant to 34-025(2).

Part B: General, Simple or Standard ACDP

1. Aerospace or aerospace parts manufacturing.
2. Aluminum production – primary.
3. Ammonia manufacturing.
4. Animal rendering and animal reduction facilities.
5. Asphalt blowing plants.
6. Asphalt felts or coating manufacturing.
7. Asphaltic concrete paving plants, both stationary and portable.
8. Bakeries, commercial over 10 tons of VOC emissions per year.
9. Battery separator manufacturing.
10. Lead-acid battery manufacturing and re-manufacturing.
11. Beet sugar manufacturing.
12. Boilers and other fuel burning equipment over 10 MMBTU/hour heat input.
13. Building paper and buildingboard mills.
14. Calcium carbide manufacturing.

15. Can or drum coating.
16. Cement manufacturing.
17. Cereal preparations and associated grain elevators 10,000 or more tons/year throughput.
18. Charcoal manufacturing.
19. Chlorine and alkali manufacturing.
20. Chrome plating (Decorative and Hard) and anodizing subject to a NESHAP under title 44.
21. Coffee roasting, roasting 30 or more tons per year.
22. Concrete manufacturing including redimix and CTB, both stationary and portable, 25,000 or more cubic yards per year output.
23. Crematory incinerators 20 or more tons/year material input.
24. Degreasing operations, halogenated solvent cleanings subject to a NESHAP under title 44.
25. Electrical power generation from combustion, excluding units used exclusively as emergency generators and units less than 500 kW.
26. Ethylene oxide sterilization.
27. Flatwood coating.
28. Flexographic or rotogravure printing.
29. Flour, blended and/or prepared and associated grain elevators 10,000 or more tons/year throughput.
30. Galvanizing and pipe coating.
31. Gasoline bulk plants, bulk terminals, and pipeline facilities.
32. **Gasoline dispensing facilities (GDFs).
33. Glass and glass container manufacturing.
34. Grain elevators used for intermediate storage 10,000 or more tons/year throughput.
35. Reserved.
36. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/year metal charged, not elsewhere identified.
37. Gypsum products manufacturing.
38. Hardboard manufacturing, including fiberboard.
39. Incinerators with two or more tons per day capacity.
40. Lime manufacturing.
41. Reserved
42. Magnetic tape manufacturing.
43. Manufactured home, mobile home, and recreational vehicle manufacturing.
44. Marine vessel petroleum loading and unloading.
45. Millwork manufacturing, including kitchen cabinets and structural wood members, 25,000 or more board feet/maximum 8 hour input.
46. Molded container manufacturing.
47. Motor coach manufacturing.
48. Natural gas and oil production and processing and associated fuel burning equipment.
49. Nitric acid manufacturing.
50. Nonferrous metal foundries 100 or more tons/year of metal charged.
51. Organic or inorganic chemical manufacturing and distribution with $\frac{1}{2}$ or more tons per year emissions of any one criteria pollutant, sources in this category with less than $\frac{1}{2}$ ton/year of each criteria pollutant are not required to have an ACDP.
52. Reserved.
53. Particleboard manufacturing, including strandboard, flakeboard, and waferboard.
54. Perchloroethylene dry cleaning operations subject to an area source NESHAP under title 44, excluding perchloroethylene dry cleaning operations registered pursuant to 34-025(2).
55. Pesticide manufacturing 5,000 or more tons/year annual production.

56. 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.
57. Plywood manufacturing and/or veneer drying.
58. Prepared feeds manufacturing for animals and fowl and associated grain elevators 10,000 or more tons per year throughput.
59. Primary smelting and/or refining of ferrous and non-ferrous metals.
60. Pulp, paper and paperboard mills.
61. Rock, concrete or asphalt crushing both portable and stationary, 25,000 or more tons/year crushed.
62. Sawmills and/or planing mills 25,000 or more board feet/maximum 8 hour finished product.
63. Secondary smelting and/or refining of ferrous and nonferrous metals.
64. Seed cleaning and associated grain elevators 5,000 or more tons/year throughput.
65. Sewage treatment facilities employing internal combustion engines for digester gasses.
66. Soil remediation facilities, both stationary and portable.
67. Steel works, rolling and finishing mills.
68. Reserved.
69. Surface coating operations: coating operations whose actual or expected usage of coating materials is greater than 250 gallons per month, excluding sources that exclusively use non-VOC and non-HAP containing coatings.
70. Synthetic resin manufacturing.
71. Tire manufacturing.
72. Wood furniture and fixtures 25,000 or more board feet/maximum 8 hour input.
73. Wood preserving (including waterborne with actual or projected emissions of greater than 1 ton/year VOC and/or HAP).
74. All other sources, both stationary and portable, not listed herein that LRAPA determines an air quality concern exists including minor sources of HAPs not elsewhere classified or one which would emit significant malodorous emissions.
75. All other sources, both stationary and portable, not listed herein which would have actual emissions, if the source were to operate uncontrolled, of 5 or more tons per year of direct PM_{2.5} or PM₁₀ if located in a PM_{2.5} or PM₁₀ nonattainment or maintenance area, or 10 or more tons per year of any single criteria pollutant if located in any part of Lane County.
76. Aluminum, copper, and other nonferrous foundries subject to an area source NESHAP under title 44.
77. Ferroalloy production facilities subject to an area source NESHAP under title 44.
78. Metal fabrication and finishing operations subject to an area source NESHAP under title 44.
79. Motor vehicle and mobile equipment surface coating operations subject to an area source NESHAP under title 44, using more than 20 gallons of coating per year excluding motor vehicle surface coating operations registered pursuant to LRAPA 34-025(2).
80. Paint stripping and miscellaneous surface coating operations subject to an area source NESHAP under title 44.
81. Paint and allied products manufacturing subject to an area source NESHAP under title 44.
82. Plating and polishing operations subject to an area source NESHAP under title 44.
83. Fiberglass lay-up and/or reinforced plastic composites production.
84. Chemical manufacturing facilities that do not transfer liquids containing organic HAP listed in Table 1 of 40 CFR part 63 subpart VVVVVV to tank trucks or railcars and are not subject to emission limits in Table 2, 3, 4, 5, 6, or 8 of 40 CFR part 63 subpart VVVVVV.
85. Stationary internal combustion engines if:
 - a. For emergency generators and firewater pumps, the aggregate engine horsepower rating is greater than 30,000 horsepower; or

- b. For any individual non-emergency or non-fire pump engine, the engine is subject to 40 CFR part 63, subpart ZZZZ and is rated at 500 horsepower or more, excluding two stroke lean burn engines, engines burning exclusively landfill or digester gas, and four stroke engines located in remote areas; or
 - c. For any individual non-emergency engine, the engine is subject to 40 CFR part 60, subpart IIII and:
 - A. The engine has a displacement of 30 liters or more per cylinder; or
 - B. The engine has a displacement of less than 30 liters per cylinder and is rated at 500 horsepower or more and the engine and control device are either not certified by the manufacturer to meet the NSPS or not operated and maintained according to the manufacturer's emission-related instructions; or
 - d. For any individual non-emergency engine, the engine is subject to 40 CFR part 60, subpart JJJJ and is rated at 500 horsepower or more and the engine and control device are either not certified by the manufacturer to meet the NSPS or not operated and maintained according to the manufacturer's emission-related instructions.
86. Pathological waste incinerators.
87. Clay ceramics manufacturing subject to an area source NESHAP under title 44.
88. Secondary nonferrous metals processing subject to an Area Source NESHAP under title 44.

Part C: Standard ACDP

- 1. Incinerators for PCBs, other hazardous wastes, or both.
- 2. All sources that LRAPA determines have emissions that constitute a nuisance.
- 3. All sources electing to maintain the source's netting basis.
- 4. All sources that request a PSEL equal to or greater than the SER for a regulated pollutant.
- 5. All sources having the potential to emit more than 100 tons or more of any regulated pollutant, except GHG, in a year.
- 6. All sources having the potential to emit more than 10 tons or more of a single hazardous air pollutant in a year.
- 7. All sources having the potential to emit more than 25 tons or more of all hazardous air pollutants combined in a year.

Notes:

** Gasoline dispensing facilities with 1) gasoline storage tanks greater than or equal to 250 gallons and less than 5,000 gallons must obtain registration or 2) exclusively above ground tanks are required to obtain an ACDP only if they have month throughput of 10,000 gallons of gasoline per month or more or sell gasoline for use in motor vehicles.

*** "back-up" means less than 10,000 gallons of fuel per year

For more information contact:

Lane Regional Air Protection Agency
 1010 Main Street
 Springfield, OR 97477
 (541) 736-1056

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	\$4,841
b. Basic ACDP	\$194
c. Assignment to General ACDP*	\$1,936
d. Simple ACDP	\$9,682
e. Construction ACDP	\$15,491
f. Standard ACDP	\$19,363
g. Standard ACDP (Major NSR or Type A State NSR)	\$67,770

*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	\$ 582
c. General ACDP	
(A) Fee Class One	\$1,162
(B) Fee Class Two	\$2,093
(C) Fee Class Three	\$3,022
(D) Fee Class Four	\$582
(E) Fee Class Five	\$186
(F) Fee Class Six	\$380
(G) Attachment	\$194
d. Simple ACDP	
(A) Low Fee	\$3,098
(B) High Fee	\$6,196
e. Standard ACDP	\$12,393
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
c. Simple ACDP	
(A) Low Fee	\$806
(B) High Fee	\$1,612
d. 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	\$194
b. Non-PSD/NSR Basic Technical Permit Modification	\$582
c. Non-PSD/NSR Simple Technical Permit Modification	\$1,936
d. Non-PSD/NSR Moderate Technical Permit Modification	\$9,682
e. Non-PSD/NSR Complex Technical Permit Modification	\$19,363
f. Major NSR or Type A State NSR Permit Modification	\$67,770
g. Modeling Review (outside Major NSR or Type A State NSR)	\$9,682
h. Public Hearing at Source's Request	\$3,873
i. LRAPA MACT Determination	\$9,682
j. Compliance Order Monitoring ¹	\$194/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 5. Late Fees:

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

Part 6. Specific Registration Fees:

- Gasoline Dispensing Facilities subject to area source NESHAPs not required to otherwise obtain an LRAPA permit must pay a one-time registration fee of \$50.
- Motor vehicle surface coating operations registered pursuant to 34-025 must pay \$335 per year.
- Dry cleaners using perchloroethylene registered pursuant to 34-025 must pay \$251 per year.

LANE REGIONAL AIR PROTECTION AGENCY

TABLE 3 - SECTION 37-8030

CLEANER AIR OREGON SPECIFIC ACTIVITY FEES

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

#	ACTIVITY	Permit Type			
		Title V	Standard ACDP	Simple ACDP	General or 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	Submittal Document Modification Fee	\$2,500	\$2,500	\$500	\$250
Risk Assessment Fees					
4	Level 1 Risk Assessment - de minimis (no permit required)	\$1,500	\$1,500	\$1,000	\$800
5	Level 1 Risk Assessment - not de minimis	\$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 - not de minimis	\$3,600	\$3,600	\$2,800	\$2,300
8	Level 3 Risk Assessment - de minimis (no permit required)	\$8,800	\$8,200	\$5,300	\$4,500
9	Level 3 Risk Assessment - not de minimis	\$19,900	\$11,300	\$7,700	\$6,300
10	Level 4 Risk Assessment - de minimis (no permit required)	\$21,400	\$18,500	\$11,700	NA
11	Level 4 Risk Assessment - not de minimis	\$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	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 and type of toxic air contaminant)	\$3,000	\$3,000	\$1,500	\$1,500
Other Fees					
16	TEU Risk Assessment – no permit mod	\$1,000	\$1,000	\$500	\$500
17	TEU Risk Assessment – permit 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 - high	\$8,000	\$8,000	\$8,000	\$8,000

#	ACTIVITY	Permit Type			
		Title V	Standard ACDP	Simple ACDP	General or Basic ACDP
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

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 PM₁₀ in a PM₁₀ nonattainment or maintenance area or PM_{2.5} in a PM_{2.5} 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.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 38

NEW SOURCE REVIEW

Section 38-0010 Applicability, General Prohibitions, General Requirements, and Jurisdiction

- (1) Except as provided in paragraph (c), the owner or operator of a source undertaking one of the following actions must comply with the applicable Major New Source Review requirements of 38-0010 through 38-0070 and 38-0500 through 38-0540 for such actions prior to construction or operation:
 - (a) In an attainment, unclassified or sustainment area:
 - (A) Construction of a new federal major source;
 - (B) Major modification at an existing federal major source; or
 - (C) Major modification at an existing source that will become a federal major source because emissions of a regulated pollutant are increased to the federal major source level or more.
 - (b) In a nonattainment, reattainment or maintenance area:
 - (A) Construction of a new source that will emit 100 tons per year or more of the nonattainment, reattainment or maintenance pollutant;
 - (B) A major modification for the nonattainment, reattainment or maintenance pollutant, at an existing source that emits 100 tons per year or more of the nonattainment, reattainment or maintenance pollutant; or
 - (C) A major modification for the nonattainment, reattainment or maintenance pollutant, at an existing source that will increase emissions of the nonattainment, reattainment or maintenance pollutant to 100 tons per year or more.
 - (c) The owner or operator of a source is subject to Prevention of Significant Deterioration for GHGs under 38-0070 if the owner or operator is first subject to 38-0070 for a pollutant other than GHGs, and the source meets the criteria in subparagraph (A) or (B);
 - (A) The source is a new source which will emit GHGs at a rate equal to or greater than the SER; or
 - (B) The source is an existing source which is undertaking a major modification for GHGs.
- (2) Except as provided in paragraph (c), the owner or operator of a source that is undertaking an action that is not subject to Major NSR under subsection (1) and is one of the actions identified in paragraphs (a) or (b) must comply with the applicable State New Source

Review requirements of 38-0010 through 38-0038, 38-0245 through 38-0270 and 38-0500 through 38-0540 for such action prior to construction or operation.

- (a) In a nonattainment, reattainment or maintenance area:
 - (A) Construction of a new source that will have emissions of the nonattainment, reattainment or maintenance pollutant equal to or greater than the SER; or
 - (B) Major modification for the nonattainment, reattainment or maintenance pollutant, at an existing source that will have emissions of the nonattainment, reattainment or maintenance pollutant equal to or greater than the SER over the netting basis.
- (b) In any designated area, for actions other than those identified in paragraph (a):
 - (A) Construction of a new source that will have emissions of a regulated pollutant equal to or greater than the SER; or
 - (B) Increasing emissions of a regulated pollutant to an amount that is equal to or greater than the SER over the netting basis.
- (c) GHGs are not subject to State NSR.
- (d) Type A and Type B State NSR: State NSR actions are categorized as follows:
 - (A) Actions under paragraph (a), and actions for which the source must comply with 38-0245(2), are categorized as Type A State NSR actions; and
 - (B) Actions under paragraph (b) are categorized as Type B State NSR unless the source must comply with 38-0245(2).
- (3) The owner or operator of a source subject to subsection (1) or (2) must apply this division based on the type of designated area where the source is located for each regulated pollutant, taking the following into consideration:
 - (a) The source may be subject to this title for multiple pollutants;
 - (b) Some pollutants, including but not limited to NO_x, may be subject to multiple requirements in this title both as pollutants and as precursors to other pollutants;
 - (c) Every location in the state carries an area designation for each criteria pollutant and the entire state is treated as an unclassified area for regulated pollutants that are not criteria pollutants; and
 - (d) Designated areas may overlap.
- (4) Where this title requires the owner or operator of a source to conduct analysis under or comply with a section in title 40, the owner or operator must complete such work in compliance with 40-0030 and 40-0040.
- (5) Owners and operators of all sources may be subject to other LRAPA rules, including, but not limited to, Notice of Construction and Approval Plans (34-034 through 34-038), ACDPs

(LRAPA title 37), Title V permits (OAR 340 division 218), Highest and Best Practicable Treatment and Control Required (32-005 through 32-009), Emission Standards for Hazardous Air Contaminants (LRAPA title 44), and Standards of Performance for New Stationary Sources (LRAPA title 46) and Stationary Source Plant Site Emission Limits (LRAPA title 42), as applicable.

- (6) An owner or operator of a source that meets the applicability criteria of subsections (1) or (2) may not begin actual construction, continue construction or operate the source without complying with the requirements of this title and obtaining an air contaminant discharge permit (ACDP) issued by LRAPA authorizing such construction or operation.

Section 38-0020 Definitions

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

Section 38-0025 Major Modification

- (1) Except as provided in subsections (3) and (4), "major modification" means a change at a source described in subsection (2) for any regulated pollutant subject to NSR since the later of:
 - (a) The baseline period for all regulated pollutants except PM_{2.5};
 - (b) May 1, 2011 for PM_{2.5}; or
 - (c) The most recent Major or Type A State NSR action for that regulated pollutant.
- (2) Description of a major modification:
 - (a) Any physical change or change in the method of operation of a source that results in emissions described in subparagraphs (A) and (B):
 - (A) A PSEL or actual emissions that exceed the netting basis by an amount that is equal to or greater than the SER; and
 - (B) The accumulation of emission increases due to all physical changes and changes in the method of operation that is equal to or greater than the SER. For purposes of this paragraph, emission increases shall be calculated as follows: For each unit with a physical change or change in the method of operation occurring at the source since the later of the dates in paragraphs (1)(a) through (1)(c) as applicable for each pollutant, subtract the unit's portion of the netting basis from its post-change potential to emit taking into consideration any federally enforceable limits on potential to emit. Emissions from categorically insignificant activities, aggregate insignificant emissions, and fugitive emissions must be included in the calculations.
 - (b) For purposes of this section:
 - (A) "The unit's portion of the netting basis" means the portion of the netting basis assigned to or associated with the unit in question, taking into consideration the following, as applicable:
 - (i) The unit's portion of the netting basis when the netting basis is established under 42-0046(2); and

- (ii) Any adjustments under 42-0046(3) that affect the unit's portion of the netting basis.
 - (B) Emission increases due solely to increased use of equipment or facilities that existed or were permitted or approved to construct in accordance with LRAPA title 34 during the applicable baseline period are not included, except if the increased use is to support a physical change or change in the method of operation.
 - (C) If a portion of the netting basis or PSEL or both was set based on PTE because the source had not begun normal operations but was permitted or approved to construct and operate, that portion of the netting basis or PSEL or both must be excluded until the netting basis is reset as specified in 42-0046(3)(d) and 42-0051(3).
- (3) "Major modification" means any change including production increases, at a source that obtained a permit to construct and operate after the applicable baseline period but has not undergone Major NSR or Type A State NSR, that meets the criteria in paragraphs (a) or (b):
- (a) The change would result in a PSEL increase of the de minimis level or more for any regulated pollutant at a federal major source in attainment, unclassified or sustainment areas; or
 - (b) The change would result in a PSEL increase of the de minimis level or more for the sustainment, nonattainment, reattainment or maintenance pollutant if the source emits such pollutant at the SER or more in a sustainment, nonattainment, reattainment, or maintenance area.
 - (c) This subsection does not apply to PM_{2.5} and greenhouse gases.
 - (d) Changes to the PSEL solely due to the availability of more accurate and reliable emissions information are exempt from being considered an increase under this section.
- (4) Major modifications for ozone precursors or PM_{2.5} precursors also constitute major modifications for ozone and PM_{2.5}, respectively.
- (5) Except as provided in subsections (1), (3), and (4), the following are not major modifications:
- (a) Increases in hours of operation or production rates that would cause emission increases above the levels allowed in a permit but would not involve a physical change or change in method of operation of the source.
 - (b) Routine maintenance, repair, and replacement of components.
 - (c) Temporary equipment installed for maintenance of the permanent equipment if the temporary equipment is in place for less than six months and operated within the permanent equipment's existing PSEL.
 - (d) Use of alternate fuel or raw materials, that were available during, and that the source would have been capable of accommodating in the baseline period.
- (6) When more accurate or reliable emissions information becomes available, a recalculation of the PSEL, netting basis, and increases/decreases in emissions must be performed to determine whether a major modification has occurred.

NOTE: This rule was moved verbatim from title 12 and amended.

Section 38-0030 New Source Review Procedural Requirements

- (1) Information Required. The owner or operator of a source subject to Major NSR or State NSR must submit all information LRAPA needs to perform any analysis or make any determination required under this title and title 40. The information must be in writing on forms supplied or approved by LRAPA and include the information required to apply for a permit or permit modification under:
 - (a) Title 37 for Major NSR or Type A State NSR action; or
 - (b) Title 37 or OAR 340 division 218, whichever is applicable, for Type B State NSR actions.
- (2) Application Processing:
 - (a) For Type B State NSR, LRAPA will review applications and issue permits using the procedures in title 37 or OAR 340 division 218, whichever is applicable.
 - (b) For Major NSR and Type A State NSR:
 - (A) Notwithstanding the requirements of 37-0040(11), within 30 days after receiving an ACDP permit application to construct, or any additional information or amendment to such application, LRAPA will advise the applicant whether the application is complete or if there is any deficiency in the application or in the information submitted. For purposes of this section, an application is complete as of the date on which LRAPA received all required information;
 - (B) Upon determining that an application is complete, LRAPA will undertake the public participation procedures in title 31 for a Category IV permit action; and
 - (C) LRAPA will make a final determination on the application within twelve months after receiving a complete application.
- (3) An owner or operator that obtained approval of a project under this division must obtain approval for a revision to the project according to the permit application requirements in this title and title 37 or OAR 340 division 218, whichever is applicable, prior to initiating the revision. If construction has commenced, the owner or operator must temporarily halt construction until a revised permit is issued. The following are considered revisions to the project that would require approval:
 - (a) A change that would increase permitted emissions;
 - (b) A change that would require a re-evaluation of the approved control technology; or
 - (c) A change that would increase air quality impacts.
- (4) For Major NSR and Type A State NSR permit actions, an ACDP that approves construction must require construction to commence within 18 months of issuance. Construction approval terminates and is invalid if construction is not commenced within 18 months after LRAPA issues such approval, or by the deadline approved by LRAPA in an extension under subsection (5). Construction approval also terminates and is invalid if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the scheduled time. An ACDP may approve a phased construction project with

separate construction approval dates for each subsequent phase and, for purposes of applying this section, the construction approval date for the second and subsequent phases will be treated as the construction approval issuance date.

- (5) For Major NSR and Type A State NSR permit actions, LRAPA may grant for good cause two 18-month construction approval extensions as follows:
- (a) Except as provided in paragraph (i), for the first extension, the owner or operator must submit an application to modify the permit that includes the following:
 - (A) A detailed explanation of why the source could not commence construction within the initial 18-month period; and
 - (B) Payment of the simple technical permit modification fee in 37-8020 Part 3.
 - (b) Except as provided in paragraph (i), for the second extension, the owner or operator must submit an application to modify the permit that includes the following for the original regulated pollutants subject to Major NSR or Type A State NSR:
 - (A) A detailed explanation of why the source could not commence construction within the second 18-month period;
 - (B) A review of the original LAER or BACT analysis for potentially lower limits and a review of any new control technologies that may have become commercially available since the original LAER or BACT analysis;
 - (C) A review of the air quality analysis to address any of the following:
 - (i) All ambient air quality standards and PSD increments that were subject to review under the original application;
 - (ii) Any new competing sources or changes in ambient air quality since the original application was submitted;
 - (iii) Any new ambient air quality standards or PSD increments for the regulated pollutants that were subject to review under the original application; and
 - (iv) Any changes to EPA approved models that would affect modeling results since the original application was submitted, and
 - (D) Payment of the moderate technical permit modification fee plus the modeling review fee in 37-8020 Part 3.
 - (c) Except as provided in paragraph (i), the permit will be terminated 54 months after it was initially issued if construction does not commence during that 54-month period. If the owner or operator wants approval to construct beyond the termination of the permit, the owner or operator must submit an application for a new Major NSR or Type A State NSR permit.
 - (d) If construction is commenced prior to the date that construction approval terminates, the permit can be renewed or the owner or operator may apply for a Title V permit as required in OAR 340-218-0190;

- (e) To request a construction approval extension under paragraph (a) or (b), the owner or operator must submit an application to modify the permit at least 30 days but not more than 90 days prior to the end of the current construction approval period.
- (f) Construction may not commence during the period from the end of the preceding construction approval to the time LRAPA approves the next extension.
- (g) LRAPA will make a proposed permit modification available using the following public participation procedures in title 31:
 - (A) Category II for an extension that does not require an air quality analysis; or
 - (B) Category III for an extension that requires an air quality analysis.
- (h) LRAPA will grant a permit modification extending the construction approval for 18 months from the end of the first or second 18-month construction approval period, whichever is applicable, if:
 - (A) Based on the information required to be submitted under paragraph (a) or (b), LRAPA determines that the proposed source will continue to meet NSR requirements; and
 - (B) For any extension, the area impacted by the source has not been redesignated to sustainment or nonattainment prior to the granting of the extension.
 - (i) If the area where the source is located is redesignated to sustainment or nonattainment before any extension is approved, the owner or operator must demonstrate compliance with the redesignated area requirements if the source is subject to Major NSR or Type A State NSR for the redesignated pollutant, and must obtain the appropriate permit or permit revision before construction may commence. The new permit or permit revision under this subsection will be considered to start a new initial 18-month construction approval period.
- (6) Approval to construct does not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state or federal law;
- (7) Sources that are subject to OAR 340 division 218, LRAPA Title V Permits, are subject to the following:
 - (a) Except as provided in paragraph (b), approval to construct a source under an ACDP issued under title 37 authorizes construction and operation of the source, until the later of:
 - (A) One year from the date of initial startup of operation of the major source or major modification; or
 - (B) If a timely and complete application for an LRAPA Title V Operating Permit is submitted, the date of final action by LRAPA on the LRAPA Title V Operating Permit application.
 - (b) Where an existing LRAPA Title V Operating Permit would prohibit construction or change in operation, the owner or operator must obtain a Title V permit revision before

commencing the construction, continuing the construction or making the change in operation.

Section 38-0034 Exemptions

Temporary emission sources that would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a source subject to Major NSR or Type A State NSR must comply with the control technology requirements in the applicable subsection, but are exempt from the remaining requirements of the applicable sections provided that the source subject to Major NSR or Type A State NSR would not impact a Class I area or an area with a known violation of an ambient air quality standard or a PSD increment.

NOTE: This rule was moved verbatim from section 38-0080 and amended.

Section 38-0038 Fugitive and Secondary Emissions

For sources subject to Major NSR or Type A State NSR, fugitive emissions are included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions are not included in calculations of potential emissions that are made to determine if a proposed source or modification is subject to Major NSR or Type A State NSR. Once a source is subject to Major NSR or Type A State NSR, secondary emissions also become subject to the air quality impact analysis requirements in this title and LRAPA title 40.

NOTE: This rule was moved verbatim from section 38-0100 and amended.

Section 38-0040 Review of Sources Subject to Major NSR or Type A State NSR for Compliance With Regulations

The owner or operator of a source subject to Major NSR or Type A State NSR must demonstrate the ability of the proposed source or modification to comply with all applicable air quality requirements of LRAPA.

Major New Source Review

Section 38-0045 Requirements for Sources in Sustainment Areas

Within a designated sustainment area, a source subject to Major NSR must meet the requirements listed below for each sustainment pollutant:

- (1) 38-0070; and
- (2) Net Air Quality Benefit: Satisfy 38-0510 and 38-0520 for ozone sustainment areas or 38-0510 and 38-0530(2) and (4) for non-ozone sustainment areas, whichever is applicable, unless the source can demonstrate that the impacts are less than the significant impact levels at all receptors within the sustainment area.

Section 38-0050 Requirements for Sources in Nonattainment Areas

Within a designated nonattainment area, and when referred to this rule by other rules in this title, a source subject to Major NSR must meet the requirements listed below for each nonattainment pollutant:

- (1) Lowest Achievable Emission Rate (LAER). The owner or operator of the source must apply LAER for each nonattainment pollutant or precursor(s) emitted at or above the significant emission rate (SER). LAER applies separately to the nonattainment pollutant or precursor(s) if emitted at or above a SER over the netting basis.
 - (a) For a major modification, the requirement for LAER applies to the following:
 - (A) Each emissions unit that emits the nonattainment pollutant or precursor(s) and is not included in the most recent netting basis established for that pollutant; and
 - (B) Each emission unit that emits the nonattainment pollutant or precursor(s) and is included in the most recent netting basis and contributed to the emissions increase calculated in 38-0025(2)(a)(B) for the nonattainment pollutant or precursor.
 - (b) For phased construction projects, the LAER determination must be reviewed at the latest reasonable time before commencing construction of each independent phase.
 - (c) When determining LAER for a change that was made at a source before the current Major NSR application, LRAPA will consider technical feasibility of retrofitting required controls provided:
 - (A) The physical change or change in the method of operation at a unit that contributed to the emissions increase calculated in 38-0025(2)(a)(B) was made in compliance with Major NSR requirements in effect when the change was made, and
 - (B) No limit will be relaxed that was previously relied on to avoid Major NSR.
 - (d) Physical changes or changes in the method of operation to individual emission units that contributed to the emissions increase calculated in 38-0025(2)(a)(B) but that increased the potential to emit less than 10 percent of the SER are exempt from this section unless:
 - (A) They are not constructed yet;
 - (B) They are part of a discrete, identifiable, larger project that was constructed within the previous 5 years and that resulted in emission increases equal to or greater than 10 percent of the SER; or
 - (C) They were constructed without, or in violation of, LRAPA's approval.
- (2) Air Quality Protection:
 - (a) Air Quality Analysis: The owner or operator of a federal major source must comply with 40-0050(4) and 40-0070.

- (b) Net Air Quality Benefit: The owner or operator of the source must satisfy 38-0510 and 38-0520 for ozone nonattainment areas or 38-0510 and 38-0530(2) and (4) for non-ozone nonattainment areas, whichever is applicable.
- (3) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:
 - (a) The owner or operator of any source that emits an ozone precursor (VOC or NO_x) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0520 for ozone designated areas.
 - (b) The owner or operator of any source that emits any criteria pollutant, other than NO_x as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0540 for designated areas other than ozone designated areas.
- (4) The owner or operator of the source must:
 - (a) Evaluate alternative sites, sizes, production processes, and environmental control techniques for the proposed source or major modification and demonstrate that benefits of the proposed source or major modification will significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.
 - (b) Demonstrate that all federal major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the state are in compliance, or are on a schedule for compliance, with all applicable emission limitations and standards under the FCAA.

Section 38-0055 Requirements for Sources in Reattainment Areas

Within a designated reattainment area, a source subject to Major NSR must meet the requirements listed below for each reattainment pollutant:

- (1) 38-0050, treating the reattainment pollutant as a nonattainment pollutant for that rule; and
- (2) The owner or operator must demonstrate that it will not cause or contribute to a new violation of an ambient air quality standard or PSD increment in title 50 by conducting the analysis under 40-0050.

Section 38-0060 Requirements for Sources in Maintenance Areas

Within a designated nonattainment area, a source subject to Major NSR must meet the requirements listed below for each maintenance pollutant:

- (1) 38-0070; and

- (2) Net Air Quality Benefit: Except for sources described in subsection (7), the owner or operator of the source must satisfy one of the requirements listed below:
- (a) 38-0510 and 38-0520 for ozone maintenance areas or 38-0510 and 38-0530(3) and (4) for non-ozone maintenance areas, whichever is applicable;
 - (b) Demonstrate that the source or modification will not cause or contribute to an air quality impact in excess of the impact levels in 50-055 or OAR 340-202-0225 by performing the analysis specified in 40-0045; or
 - (c) Obtain an allocation from a growth allowance. The requirements of this subsection may be met in whole or in part in an ozone or carbon monoxide maintenance area with an allocation by LRAPA from a growth allowance, if available, under the applicable maintenance plan in the SIP adopted by the Board and EQC and approved by EPA.
- (3) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:
- (a) The owner or operator of any source that emits an ozone precursor (VOC or NO_x) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0520 for ozone designated areas.
 - (b) The owner or operator of any source that emits any criteria pollutant, other than NO_x as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0540 for designated areas other than ozone designated areas.
- (4) Contingency Plan Requirements. If the contingency plan in an applicable maintenance plan is implemented due to a violation of an ambient air quality standard, this section applies in addition to other requirements of this rule until LRAPA adopts a revised maintenance plan and EPA approves it as a SIP revision.
- (a) The source must comply with the LAER requirement in 38-0050(1) in lieu of the BACT requirement in subsection (1); and
 - (b) The source must comply with the net air quality benefit requirement in paragraph (2)(a) and may not apply the alternatives provided in paragraphs (2)(b) and (2)(c).
- (5) Pending Redesignation Requests. This section does not apply to a proposed major source or major modification for which a complete application to construct was submitted to LRAPA before the maintenance area was redesignated from nonattainment to attainment by EPA. Such a source is subject to 38-0050 or 38-0055, whichever is applicable.

Section 38-0070 Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas

Within a designated attainment or unclassified area, and when referred to this section by other sections in this title, a source that is subject to Major NSR for any regulated pollutant, other than

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nonattainment pollutants and reattainment pollutants, must meet the requirements listed below for each such pollutant, except that GHGs are only subject to subsection (2):

(1) Air Quality Monitoring:

(a) Preconstruction Air Quality Monitoring:

- (A) The owner or operator of a source must submit with the application an analysis of ambient air quality in the area impacted by the proposed project for each regulated pollutant subject to this rule except as allowed by subparagraph (B).
 - (i) The analysis must include continuous air quality monitoring data for any regulated pollutant subject to this rule that may be emitted by the source or modification, except for volatile organic compounds.
 - (ii) The data must relate to the year preceding receipt of the complete application and must have been gathered over the same time period.
 - (iii) LRAPA may allow the owner or operator to demonstrate that data gathered over some other time period would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable PSD increment.
 - (iv) When PM₁₀/PM_{2.5} preconstruction monitoring is required by this section, at least four months of data must be collected, including the season LRAPA judges to have the highest PM₁₀/PM_{2.5} levels. PM₁₀/PM_{2.5} must be measured using 40 CFR part 50, Appendices J and L. In some cases, a full year of data will be required.
 - (v) The owner or operator must submit a written preconstruction air quality monitoring plan at least 60 days prior to the planned beginning of monitoring. The applicant may not commence monitoring under the plan until LRAPA approves the plan in writing.
 - (vi) Required air quality monitoring must comply with 40 CFR part 58 Appendix A, "Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring" and with other methods on file with LRAPA.
 - (vii) With LRAPA's approval, the owner or operator may use representative or conservative background concentration data in lieu of conducting preconstruction air quality monitoring if the source demonstrates that such data is adequate to determine that the source would not cause or contribute to a violation of an ambient air quality standard or any applicable PSD increment.
- (B) LRAPA may exempt the owner or operator of a proposed source or modification from preconstruction monitoring for a specific regulated pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below, or

that modeled competing source concentration plus the general background concentration of the regulated pollutant within the source impact area, as defined in title 40, are less than the following significant monitoring concentrations:

- (i) Carbon monoxide; 575 ug/m³, 8 hour average;
- (ii) Nitrogen dioxide; 14 ug/m³, annual average;
- (iii) PM₁₀; 10 ug/m³, 24 hour average;
- (iv) PM_{2.5}; 0 ug/m³, 24-hour average;
- (v) Sulfur dioxide; 13 ug/m³, 24 hour average;
- (vi) Ozone; Any net increase of 100 tons/year or more of VOCs from a source requires an ambient impact analysis, including the gathering of ambient air quality data unless the existing representative monitoring data shows maximum ozone concentrations are less than 50 percent of the ozone ambient air quality standards based on a full season of monitoring;
- (vii) Lead; 0.1 ug/m³, 24 hour average;
- (viii) Fluorides; 0.25 ug/m³, 24 hour average;
- (ix) Total reduced sulfur; 10 ug/m³, 1 hour average;
- (x) Hydrogen sulfide; 0.04 ug/m³, 1 hour average;
- (xi) Reduced sulfur compounds; 10 ug/m³, 1 hour average.

(b) Post-construction Air Quality Monitoring: LRAPA may require post-construction ambient air quality monitoring as a permit condition to establish the effect of actual emissions, other than volatile organic compounds, on the air quality of any area that such emissions could affect.

(2) Best Available Control Technology (BACT). For a source under the applicability criteria in 38-0010(1)(a)(A), the owner or operator must apply BACT for each regulated pollutant emitted at or above a significant emission rate (SER). For a source under the applicability criteria in 38-0010(1)(a)(B) or (C), BACT applies to each regulated pollutant that is emitted at or above a SER over the netting basis and meets the criteria of major modification in 38-0025.

(a) For a major modification, the requirement for BACT applies to the following:

(A) Each emissions unit that emits the regulated pollutant or precursor(s) and is not included in the most recent netting basis established for that regulated pollutant; and

- (B) Each emissions unit that emits the regulated pollutant or precursor(s) and is included in the most recent netting basis and contributed to the emissions increase calculated in 38-0025(2)(a)(B) for the regulated pollutant.
- (b) For phased construction projects, the BACT determination must be reviewed at the latest reasonable time before commencement of construction of each independent phase.
- (c) When determining BACT for a change that was made at a source before the current Major NSR application, any additional cost of retrofitting required controls may be considered provided:
 - (A) The change was made in compliance with Major NSR requirements in effect at the time the change was made, and
 - (B) No limit is being relaxed that was previously relied on to avoid Major NSR.
- (d) Modifications to individual emissions units that have an emission increase, calculated per 38-0025(2)(a)(B), that is less than 10 percent of the SER are exempt from this section unless:
 - (A) They are not constructed yet;
 - (B) They are part of a discrete, identifiable larger project that was constructed within the previous 5 years and that is equal to or greater than 10 percent of the SER; or
 - (C) They were constructed without, or in violation of, LRAPA's approval.
- (3) Air Quality Protection:
 - (a) Air Quality Analysis:
 - (A) The owner or operator of the source comply with 40-0050 and 40-0060 for each pollutant for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification.
 - (B) The owner or operator of a federal major source must comply with 40-0050(4) and 40-0070.
 - (b) For increases of direct PM_{2.5} or PM_{2.5} precursors equal to or greater than the SERs, the owner or operator must provide an analysis of PM_{2.5} air quality impacts based on all increases of direct PM_{2.5} and PM_{2.5} precursors.
 - (c) The owner or operator of the source must demonstrate that it will not cause or contribute to a new violation of an ambient air quality standard or PSD increment even if the single source impact is less than the significant impact level under 40-0050(1).

- (4) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:
- (a) The owner or operator of any source that emits an ozone precursor (VOC or NO_x) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0520 for ozone designated areas.
 - (b) The owner or operator of any source that emits any criteria pollutant, other than NO_x as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0540 for designated areas other than ozone designated areas.

NOTE: Subsection (1) of this section was moved verbatim from 40-0050(4) and amended.

State New Source Review

Section 38-0245 Requirements for Sources in Sustainment Areas

Within a designated sustainment area, a source subject to State NSR must meet the following requirements for each sustainment pollutant:

- (1) Air Quality Protection: The owner or operator must comply with paragraph (a) or (b):
- (a) Air Quality Analysis: The owner or operator must comply with 40-0050(1) and (2) and 40-0060 for each regulated pollutant for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification. For increases of direct PM_{2.5} or PM_{2.5} precursors equal to or greater than the SER, the owner or operator must provide an analysis of PM_{2.5} air quality impacts based on all increases of direct PM_{2.5} and PM_{2.5} precursors; or
 - (b) Net Air Quality Benefit: The owner or operator of the source must satisfy the requirements of subparagraph (A), (B), or (C), as applicable:
 - (A) For ozone sustainment areas, 38-0510 and 38-0520;
 - (B) For sources located in non-ozone sustainment areas, that will emit 100 tons per year or more of the sustainment pollutant, 38-0510 and 38-0530(2) and (4);
 - (C) For sources located in non-ozone sustainment areas, that will emit less than 100 tons per year of the sustainment pollutant, 38-0510 and 38-0530(3) and (4).
- (2) If the owner or operator complied with paragraph (1)(b) and the increase in emissions is the result of the construction of a major source, or a major modification, then the owner or operator must apply BACT under 38-0070(2).

- (3) The owner or operator of a federal major source must comply with 40-0050(4) and 40-0070.
- (4) The owner or operator must demonstrate that it will not cause or contribute to a new violation of an ambient air quality standard or PSD increment even if the single source impact is less than the significant impact level under 40-0050(1).
- (5) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:
 - (a) The owner or operator of any source that emits an ozone precursor (VOC or NO_x) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0520 for ozone designated areas.
 - (b) The owner or operator of any source that emits any criteria pollutant, other than NO_x as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0540 for designated areas other than ozone designated areas.

Section 38-0250 Requirements for Sources in Nonattainment Areas

Within a designated nonattainment area, a source subject to State NSR must meet the following requirements for each nonattainment pollutant:

- (1) If the increase in emissions is the result of the construction of a major source, or a major modification, the owner or operator must apply BACT under 38-0070(2).
- (2) Air Quality Protection:
 - (a) Air Quality Analysis: An air quality analysis is not required except that the owner or operator of a federal major source must comply with 40-0050(4) and 40-0070.
 - (b) Net Air Quality Benefit: The owner or operator of the source must satisfy the requirements of subparagraph (A), (B), or (C), as applicable:
 - (A) For ozone nonattainment areas, 38-0510 and 38-0520;
 - (B) For sources located in non-ozone nonattainment areas, that will emit 100 tons per year or more of the nonattainment pollutant, 38-0510 and 38-0530(2) and (4);
 - (C) For sources located in non-ozone nonattainment areas, that will emit less than 100 tons per year of the nonattainment pollutant, 38-0510 and 38-0530(3) and (4).

(3) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:

- (a) The owner or operator of any source that emits an ozone precursor (VOC or NO_x) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0520 for ozone designated areas.
- (b) The owner or operator of any source that emits any criteria pollutant, other than NO_x as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0540 for designated areas other than ozone designated areas.

Section 38-0255 Requirements for Sources in Reattainment Areas

Within a designated reattainment area, a source subject to State NSR must comply with the requirements in 38-0260 for each reattainment pollutant treating the reattainment pollutant as a maintenance pollutant for that rule, except that 38-0260(2)(b)(C) and (4) are not applicable unless LRAPA has approved a contingency plan for the reattainment area.

Section 38-0260 Requirements for Sources in Maintenance Areas

Within a designated maintenance area, a source subject to State NSR must meet the following requirements for each maintenance pollutant:

- (1) If the increase in emissions is the result of the construction of a major source, or a major modification, the owner or operator of the source must apply BACT under 38-0070(2).
- (2) Air Quality Protection: The owner or operator of the source must satisfy the requirements of either paragraphs (a), (c), and (d) or of paragraphs (b), (c) and (d):
 - (a) Air Quality Analysis: The owner or operator of the source must comply with 40-0050(1) and (2), and 40-0060 for each regulated pollutant for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification. For emissions increases of direct PM_{2.5} or PM_{2.5} precursors equal to or greater than the SER, the owner or operator must provide an analysis of PM_{2.5} air quality impacts based on all increases of direct PM_{2.5} and PM_{2.5} precursors.
 - (b) Net Air Quality Benefit: The owner or operator of the source must satisfy the requirements of subparagraph (A), (B) or (C), as applicable:
 - (A) 38-0510 and 38-0520 for ozone maintenance areas or 38-0510 and 38-0530(3) and (4) for non-ozone maintenance areas, whichever is applicable;

- (B) Demonstrate that the source or modification will not cause or contribute to an air quality impact equal to or greater than the impact levels in 50-055 or OAR 340-202-0225 by performing the analysis specified in 40-0045; or
 - (C) Obtain an allocation from a growth allowance. The requirements of this section may be met in whole or in part in an ozone or carbon monoxide maintenance area with an allocation by LRAPA from a growth allowance, if available, under the applicable maintenance plan in the SIP adopted by the Board and EQC and approved by EPA.
- (c) The owner or operator of a federal major source must comply with 40-0050(4) and 40-0070.
 - (d) The owner or operator of the source must demonstrate that it will not cause or contribute to a new violation of an ambient air quality standard or PSD increment even if the single source impact is less than the significant impact level under 40-0050(1).
- (3) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:
 - (a) The owner or operator of any source that emits an ozone precursor (VOC or NO_x) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0520 for ozone designated areas.
 - (b) The owner or operator of any source that emits any criteria pollutant, other than NO_x as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under 38-0510 and OAR 38-0540 for designated areas other than ozone designated areas.
 - (4) Contingency Plan Requirements. If the contingency plan in an applicable maintenance plan is implemented due to a violation of an ambient air quality standard, this section applies in addition to other requirements of this rule until the EQC adopts a revised maintenance plan and EPA approves it as a SIP revision.
 - (a) The source must comply with the LAER requirement in 38-0050(1) in lieu of the BACT requirement in subsection (1); and
 - (b) The owner or operator must comply with subparagraph (2)(b)(A).

Section 38-0270 Requirements for Sources in Attainment and Unclassified Areas

Within a designated attainment or unclassified area, a source subject to State NSR must meet the following requirements for each attainment pollutant:

- (1) Air Quality Protection:

- (a) Air Quality Analysis: The owner or operator of the source must comply with 40-0050(1) and (2) and 40-0060 for each regulated pollutant other than GHGs for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification.
 - (b) For increases of direct PM_{2.5} or PM_{2.5} precursors equal to or greater than the SER, the owner or operator of the source must provide an analysis of PM_{2.5} air quality impacts based on all increases of direct PM_{2.5} and PM_{2.5} precursors.
 - (c) The owner or operator of a federal major source must comply with 40-0050(4) and 40-0070.
 - (d) The owner or operator of the source must demonstrate that it will not cause or contribute to a new violation of an ambient air quality standard or PSD increment even if the single source impact is less than the significant impact level under 40-0050(1).
- (2) Sources Impacting Other Designated Areas: The owner or operator of any source that will have a significant impact on air quality in a designated area other than the one the source is locating in must also meet the following requirements, as applicable:
- (a) The owner or operator of any source that emits an ozone precursor (VOC or NO_x) at or above the SER over the netting basis is considered to have a significant impact if located within 100 kilometers of a designated ozone area, and must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0520 for ozone designated areas.
 - (b) The owner or operator of any source that emits any criteria pollutant, other than NO_x as an ozone precursor, at or above the SER over the netting basis and has an impact equal to or greater than the Class II SIL on another designated area must also meet the requirements for demonstrating net air quality benefit under 38-0510 and 38-0540 for designated areas other than ozone designated areas.

Net Air Quality Benefit Emission Offsets

Section 38-0500 Net Air Quality Benefit for Sources Locating Within or Impacting Designated Areas

38-0510 through 38-0540 are the requirements for demonstrating net air quality benefit using offsets.

Section 38-0510 Common Offset Requirements

The purpose of these rules is to demonstrate reasonable further progress toward achieving or maintaining the ambient air quality standards for sources locating within or impacting designated areas. A source may make such demonstration by providing emission offsets to balance the level of projected emissions by the source at the applicable ratios described in this division.

- (1) Unless otherwise specified in the rules, offsets required under this rule must meet the requirements of title 41, Emission Reduction Credits.

- (2) Except as provided in subsection (3), the emission reductions used as offsets must be of the same type of regulated pollutant as the emissions from the new source or modification. Sources of PM₁₀ must be offset with particulate in the same size range.
- (3) Offsets for direct PM_{2.5} may be obtained from NO₂ and SO₂ emissions as precursors to secondary PM_{2.5}. The interpollutant trading ratios for these emissions will be approved by LRAPA on a case by case basis. Offsets for SO₂ and NO₂ emissions from direct PM_{2.5} emissions will be determined in the same manner.
- (4) Offset ratios specified in these rules are the minimum requirement. All offsets obtained by a source, including any that exceed the minimum requirement, may be used for the purpose of 38-0530(4).
- (5) Emission reductions used as offsets must meet at least one of the following criteria:
 - (a) They must be equivalent to the emissions being offset in terms of short term, seasonal, and yearly time periods to mitigate the effects of the proposed emissions; or
 - (b) They must address the air quality problem in the area, such as but not limited to woodstove replacements to address winter-time exceedances of short term PM_{2.5} standards.
- (6) If the complete permit application or permit that is issued based on that application is amended due to changes to the proposed project, the owner or operator may continue to use the original offsets and any additional offsets that may become necessary for the project provided that the changes to the project do not result in a change to the two digit Standard Industrial Classification (SIC) code associated with the source and that the offsets will continue to satisfy the offset criteria.

Section 38-0520 Requirements for Demonstrating a Net Air Quality Benefit for Ozone Areas

When directed by the Major NSR or State NSR sections or 42-0042, the owner or operator must comply with this section.

- (1) Offsets for VOC and NO_x are required if the source will be located within an ozone designated area or closer to the nearest boundary of an ozone designated area than the ozone impact distance as defined in subsection (2).
- (2) Ozone impact distance is the distance in kilometers from the nearest boundary of an ozone designated area within which a VOC or NO_x is considered to significantly affect that designated area. The determination of significance is made by either the formula method or the demonstration method.
 - (a) The Formula Method.
 - (A) For sources with complete permit applications submitted before January 1, 2003: D = 30 km.
 - (B) For sources with complete permit applications submitted on or after January 1, 2003: D = (Q/40) x 30 km.

- (C) D is the Ozone Precursor Distance in kilometers. The value for D is 100 kilometers when D is calculated to exceed 100 kilometers. Q is the larger of the NO_x or VOC emissions increase above the netting basis from the source being evaluated in tons per year.
 - (D) If a source is located closer than D from the nearest ozone designated area boundary, the source must obtain offsets under subsections (3) and (4). If the source is located at a distance equal to or greater than D from the nearest ozone designated area boundary, then the source is not required to obtain offsets.
- (b) The Demonstration Method. An applicant may demonstrate to LRAPA that the source or proposed source would not have a material effect on an ozone designated area other than attainment or unclassified areas. This demonstration may be based on an analysis of major topographic features, dispersion modeling, meteorological conditions, or other factors. If LRAPA determines that the source or proposed source would not have a material effect on the designated area under high ozone conditions, the ozone impact distance is zero kilometers.
- (3) The required ratio of offsetting emissions reductions from other sources (offsets) to the emissions increase from the proposed source or modification (emissions) and the location of sources that may provide offsets is as follows:
- (a) For new or modified sources locating within an ozone nonattainment area, the offset ratio is 1.1:1 (offsets: emissions). These offsets must come from sources within either the same designated nonattainment area as the new or modified source or from sources in another ozone nonattainment area (with equal or higher nonattainment classification) that contributes to a violation of the ozone ambient air quality standards in the same ozone designated area as the new or modified source.
 - (b) For new or modified sources locating within an ozone maintenance area, the offset ratio is 1.1:1 (offsets: emissions). These offsets may come from sources within either the maintenance area or from a source that is closer to the nearest maintenance area boundary than that source's ozone impact distance.
 - (c) For new or modified sources locating outside the designated area not including attainment or unclassified areas, but closer than the ozone impact distance of the nearest boundary of the designated area, the offset ratio is 1:1 (offsets: emissions). These offsets may come from within either the designated area or from a source that is closer to the nearest maintenance area boundary than that source's ozone impact distance.
- (4) The amount of required offsets and the amount of provided offsets from contributing sources varies based on whether the proposed source or modification and the sources contributing offsets are located outside the ozone designated area other than attainment or unclassified areas. The required offsets and the provided offsets are calculated using either the formula method or the demonstration method, as follows, except that sources located inside an ozone nonattainment area must use the formula method.

(a) The Formula Method.

- (A) Required offsets (RO) for new or modified sources are determined as follows:

- (i) For sources with complete permit applications submitted before January 1, 2003: $RO = SQ$; and
 - (ii) For sources with complete permit applications submitted on or after January 1, 2003: $RO = (SQ \text{ minus } (SD \text{ multiplied by } 40/30))$.
- (B) Contributing sources may provide offsets (PO) calculated as follows: $PO = CQ \text{ minus } (CD \text{ multiplied by } 40/30)$.
- (C) Multiple sources may contribute to the required offsets of a new source. For the formula method to be satisfied, total provided offsets (PO) must equal or exceed the required offsets (RO) by the ratio described in subsection (3).
- (D) Definitions of factors used in paragraphs (A), (B) and (C) of this subsection:
 - (i) RO is the required offset of NO_x or VOC in tons per year as a result of the source emissions increase. If RO is calculated to be negative, RO is set to zero.
 - (ii) SQ (source quantity) is the source's emissions increase of NO_x or VOC in tons per year above the netting basis.
 - (iii) SD is the source distance in kilometers to the nearest boundary of the designated area except attainment or unclassified areas. SD is zero for sources located within the designated area except attainment or unclassified areas.
 - (iv) PO is the provided offset from a contributing source and must be equal to or greater than zero;
 - (v) CQ (contributing quantity) is the contributing source's emissions reduction in tons per year calculated as the contemporaneous pre-reduction actual emissions less the post-reduction allowable emissions from the contributing source (as provided in 41-0030(1)(b)).
 - (vi) CD is the contributing source's distance in kilometers from the nearest boundary of the designated area except attainment of unclassified areas. For a contributing source located within the designated area except attainment or unclassified areas, CD equals zero.
- (b) The Demonstration Method. An applicant may demonstrate to LRAPA using dispersion modeling or other analyses the level and location of offsets that would be sufficient to provide actual reductions in concentrations of VOC or NO_x in the designated area during high ozone conditions. as the ratio described in subsection (3). The modeled reductions of ambient VOC or NO_x concentrations resulting from the emissions offset must be demonstrated over a greater area and over a greater period of time within the designated area as compared to the modeled ambient VOC or NO_x concentrations resulting from the emissions increase from the source subject to this rule. If LRAPA determines that the demonstration is acceptable, then LRAPA will approve the offsets proposed by the applicant.

- (c) Offsets obtained for a previous PSEL increase that did not involve resetting the netting basis can be credited toward offsets currently required for a PSEL increase.
- (5) In lieu of obtaining offsets, the owner or operator may obtain an allocation at the rate of 1:1 from a growth allowance, if available, in an applicable maintenance plan.

NOTE: This rule was moved verbatim from 40-0010-10 and 11 and 40-0090-1 and amended.

Section 38-0530 Requirements for Demonstrating Net Air Quality Benefit for Non-Ozone Areas

- (1) When directed by the Major NSR or State NSR rules or 42-0042, the owner or operator of the source must comply with subsections (2) through (6), as applicable. For purposes of this section, priority sources are sources identified under 29-0320 for the designated area.
- (2) The ratio of offsets compared to the source's potential emissions increase is 1.2:1 (offsets:emissions). If the offsets include offsets from priority sources, the ratio will be decreased by the offsets obtained from priority sources as a percentage of the source's potential emissions increase. For example, if the owner or operator obtains offsets from priority sources equal to 10% of its potential emissions increase, then the offset ratio is reduced by 0.10, to 1.1:1. In no event, however, will the offset ratio be less than 1.0:1, even if more than 20% of offsets are from priority sources.
- (3) The ratio of offsets compared to the source's potential emissions increase is 1.0:1 (offsets:emissions), except as allowed by paragraph (a) or required by paragraph (b).
 - (a) For State NSR only, if the offsets include offsets from priority sources, the ratio will be decreased by the offsets obtained from priority sources as a percentage of the source's potential emissions increase. For example, if the owner or operator obtains offsets from priority sources equal to 20% of its potential emissions increase, then the offset ratio is reduced by 0.2, to 0.8:1. In no event, however, will the offset ratio be less than 0.5:1, even if more than 50% of offsets are from priority sources.
- (4) Except as provided in subsections (5) and (6), the owner or operator must conduct an air quality analysis of the impacts from the proposed new emissions and comply with paragraphs (a) and (b) using the procedures specified in paragraphs (c) through (e):
 - (a) Demonstrate that the offsets obtained result in a reduction in concentrations at a majority of modeled receptors within the entire designated area; and
 - (b) Comply with subparagraph (A) or subparagraph (B):
 - (A) Demonstrate that the impacts from the emission increases above the source's netting basis are less than the Class II SIL at all receptors within the entire designated area; or
 - (B) Demonstrate that the impacts from the emission increases above the source's netting basis:
 - (i) Are less than the Class II SIL at an average of receptors within an area designated by LRAPA as representing a neighborhood scale, as specified in

40 CFR part 58, Appendix D, a reasonably homogeneous urban area with dimensions of a few kilometers that represent air quality where people commonly live and work in a representative neighborhood, centered on the LRAPA approved ambient monitoring sites; and

- (ii) Plus the impacts of emission increases or decreases since the date of the current area designation of all other sources within the designated area or having a significant impact on the designated area, are less than 10 percent of the AAQS at all receptors within the designated area;

(c) The air quality analysis must comply with 40-0030 and 40-0040;

(d) The air quality analysis must use a uniform receptor grid over the entire modeled area for the analyses required in paragraphs (a) and (b). The spacing of the receptor grids will be determined by LRAPA for each analysis;

(e) For the purpose of paragraph (a) and subparagraph (b)(B):

- (A) Subtract the priority source offsets from the new or modified source's emission increase if the priority sources identified are area sources. Area source emissions are spatially distributed emissions that can be generated from activities such as, but not limited to, residential wood heating, unpaved road dust, and non-road mobile sources;
- (B) If the source's emissions are not offset 100 percent by priority sources that are area sources, conduct dispersion modeling of the source's remaining emission increases after subtracting any priority source offsets allowed in subparagraph (A); and in addition, model all other sources with emission increases or decreases in or impacting the designated area since the date the area was designated, including offsets used for the proposed project, but excluding offsets from priority sources that are area sources; and
- (C) If the source's emissions are offset 100 percent by priority sources that are area sources, no further analysis is required.

(5) Small scale local energy projects and any infrastructure related to that project located in the same area are not subject to the requirements in subsection (4) provided that the proposed source or modification would not cause or contribute to a violation of an ambient air quality standard or otherwise pose a material threat to compliance with air quality standards in a nonattainment area.

Section 38-0540 Sources in a Designated Area Impacting Other Designated Areas

(1) When directed by the Major and State NSR rules, the owner or operator of a source locating outside, but impacting any designated area other than an attainment or unclassified area must meet one of the following requirements:

- (a) Obtain offsets sufficient to reduce impacts to less than the Class II SIL at all receptors within the designated area as demonstrated using an air quality analysis under title 40; or
- (b) Meet the following Net Air Quality Benefit requirements for the designated area that is impacted by the source, as applicable:

- (A) For sources subject to Major NSR for the pollutant for which the area is designated:
- (i) A source impacting a sustainment area must meet the requirements of 38-0045(2);
 - (ii) A source impacting a nonattainment area must meet the requirements of 38-0050(2)(b);
 - (iii) A source impacting a reattainment area must meet the requirements of 38-0050(2)(b), treating the reattainment pollutant as a nonattainment pollutant for that rule; or
 - (iv) A source impacting a maintenance area must meet the requirements of 38-0060(2).

(B) For sources subject to State NSR for the pollutant for which the area is designated:

- (i) A source impacting a sustainment area must meet the requirements of 38-0245(1)(b);
- (ii) A source impacting a nonattainment area must meet the requirements of 38-0250(2)(b);
- (iii) A source impacting a reattainment area must meet the requirements of 38-0260(2)(b) treating the reattainment pollutant as a maintenance pollutant for that rule; or
- (iv) A source impacting a maintenance area must meet the requirements of 38-0260(2)(b).

- (2) When directed by the Major NSR and State NSR rules, sources impacting any attainment and unclassified areas, but not directly subject to 38-0070 or 38-0270, must comply with 40-0050(1) and (2) for each regulated pollutant, other than GHGs, for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 39

Contingency for PM10 Sources in Eugene-Springfield Non-Attainment Area

Section 39-001 Purpose

Section 172 of the Clean Air Act, as amended, requires that specific measures be undertaken in a non-attainment area if the area fails to attain the national primary ambient air quality standard by the applicable attainment date. Such measures are to take effect without further action by LRAPA. The purpose of these rules is to establish contingency measures for significant industrial and area sources of PM10 which will become effective in the Eugene-Springfield PM10 non-attainment area if the area fails to attain the national primary ambient air quality standard for PM10 by December 31, 1994.

Section 39-005 Relation to Other Rules

Sections 39-001 through 39-060 shall apply in addition to all other LRAPA rules. The adoption of these rules shall not, in any way, affect the applicability of all other LRAPA rules, and the latter shall remain in full force and effect, except as expressly provided otherwise. In cases of apparent conflict, the most stringent rule shall apply.

Section 39-010 Applicability

Sections 39-001 through 39-060 shall apply to the Eugene-Springfield PM10 non-attainment area upon publication of notice by EPA in the Federal Register that the area has failed to attain the national ambient air quality standard for PM10 after December 31, 1994.

Section 39-015 Definitions

As used in Sections 39-001 through 39-060, unless otherwise required by context:

1. "Air Conveying System" means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving air stream.
2. "Average Operating Opacity" means the opacity of emissions determined using EPA method 9 on three days within a 12-month period which are separated from each other by at least 30 days. A violation of the average operating opacity limitation is judged to have occurred if the opacity of emissions on each of the three days is greater than the specified average operating opacity limitation.

3. "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.
4. "Contingency Requirements" means the requirements of Sections 39-001 through 39-060.
5. "Department" means the Oregon Department of Environmental Quality.
6. "Design Criteria" means the numerical as well as narrative description of the basis of design including, but not necessarily limited to, design flow rates, temperatures, humidities, descriptions of the types and chemical species of contaminants, uncontrolled and expected controlled mass emission rates and concentrations, scopes of any vendor-supplied and owner-supplied equipment and utilities, and a description of any operational controls.
7. "EPA" means the United States Environmental Protection Agency.
8. "EPA Method 9" means the method for Visual Determination of the Opacity of Emissions From Stationary Sources as promulgated by the U.S. Environmental Protection Agency in Title 40 of the Code of Federal Regulations, Part 60, Appendix A, Method 9.
9. "Fugitive Emissions" means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.
10. "General Arrangement," in the context of the compliance schedule requirements in this division, means drawings or reproductions which show, as a minimum, the size and location of equipment served by the emission-control system, the location and elevation above grade of the ultimate point of contaminant emission to the atmosphere, and the diameter of the emission vent.
11. "Kraft Mill" or "Mill" means any industrial operation which uses for a cooking liquor an alkaline sulfide solution containing sodium hydroxide and sodium sulfide in its pulping process.
12. "Lime Kiln" means any production device in which calcium carbonate is thermally converted to calcium oxide.
13. "Maximum Opacity" means the opacity as determined by EPA Method 9 (average of 24 consecutive observations).
14. "Particleboard" means mat-formed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

15. "Particulate Matter" means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured in accordance with the Department Source Test Manual. Particulate matter emission determinations shall consist of the average of three separate consecutive runs. For sources tested using DEQ Method 5 or DEQ method 7, each run shall have a minimum sampling time of one hour, a maximum sampling time of eight hours, and a minimum sampling volume of 31.8 dscf. For sources tested using DEQ Method 8, each run shall be sampled isokinetically, shall have a minimum sampling time of 15 minutes and shall collect a minimum particulate sample of 100 mg. Wood waste boilers shall be tested with DEQ Method 5; veneer dryers, wood particle dryers and fiber dryers shall be tested with DEQ Method 7; and air conveying systems shall be tested with DEQ Method 8; pulp mills shall be tested with DEQ method 5, except that water shall be used instead of acetone as the clean-up solvent.
16. "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.
17. "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.
18. "Veneer Dryer" means equipment in which veneer is dried.

Section 39-020 Compliance Schedule for Existing Sources

1. Except as provided in Subsection 2 of this rule, compliance with applicable contingency requirements for a source that is located in the Eugene-Springfield non-attainment area prior to the date the contingency requirements first apply shall be demonstrated as expeditiously as possible, but in no case later than the following schedules:
 - A. No later than three months of the date the contingency requirements first apply, the owner or operator shall submit Design Criteria and general specifications for emission control systems for Agency review and approval;
 - B. No later than three months of receiving the Agency's approval of the Design Criteria, the owner or operator shall submit to the Agency a General Arrangement and copies of purchase orders for any emission control devices, and apply for Agency to Construct the Facility;
 - C. No later than eight months of receiving the Agency's approval of the Design Criteria, the owner or operator shall submit to the Agency vendor drawings as approved for construction of any emission control devices and specifications of any other major equipment in the emission control system in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;

- D. No later than nine months of receiving the Agency's approval of the Design Criteria, the owner or operator shall begin construction of any emission control devices;
 - E. No later than sixteen months of receiving the Agency's approval of Design Criteria, the owner or operator shall complete construction in accordance with the Design Criteria;
 - F. No later than twenty four months of receiving the Agency's approval of Design Criteria, but no later than thirty months from the date the contingency requirements first apply, the owner or operator shall demonstrate compliance with the applicable contingency requirements.
 - G. The dates in subsections A through E may be changed only upon written approval of the Agency.
2. Subsection 1 of this rule shall not apply if the owner or operator has demonstrated, within six months of the date the contingency requirements first apply, that the source is capable of being operated and is operated in continuous compliance with applicable contingency requirements; the Agency has agreed with the demonstration in writing; and the applicable contingency requirements have been incorporated into the Air Contaminant Discharge Permit issued to the source.

Section 39-025 Wood-Waste Boilers

No person shall cause or permit the emission into the atmosphere from any wood-waste boiler that is located on a plant site where the total heat input capacity from all woodwaste boilers is less than or equal to 35 million BTU/hr unless the boiler(s) are equipped with emission control equipment which:

1. Limits emissions of particulate matter to 0.05 grains per standard cubic foot, corrected to 12% CO₂;
2. Limits visible emissions such that the opacity does not exceed 20% for more than an aggregate of 3 minutes in any one hour. Specific opacity limits shall be included in the ACD permit for each affected emission point.

Section 39-030 Veneer Dryers

No person shall operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed:

1. An average operating opacity of 10%; and

2. A maximum opacity of 20%, unless the permittee demonstrates by source test that the emission limits in subsections 3 through 6 of this section can be achieved at higher visible emissions than specified in subsections 1 and 2 of this section, in which case the emissions shall not exceed the visible air contaminant limitations of LRAPA Section 32-010.3.b. Allowable opacity limits shall be included in the Air Contaminant Discharge Permit for each affected emission point.
3. 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct natural gas or propane fired veneer dryers;
4. 0.30 pounds per 1,000 square feet of veneer dried (3/8" basis) for steam heated veneer dryers;
5. 0.40 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content by weight less than 20%;
6. 0.45 pounds per 1,000 square feet of veneer dried (3/8" basis) for direct wood fired veneer dryers using fuel which has a moisture content by weight greater than 20%;
7. In addition to subsections 5 and 6 of this section, 0.20 pounds per 1,000 pounds of steam generated.

Section 39-035 Particleboard Plants and Wood Particle Dryers

1. No person shall cause or permit the total emission of particulate matter from all wood particle dryers at a particleboard plant site to exceed 0.40 pounds per 1,000 square feet of board produced by the plant on a 3/4" basis of finished product equivalent.
2. No person shall cause or permit the visible emissions from the wood particle dryers at a particleboard plant to exceed 10% opacity for more than an aggregate of 3 minutes in any one hour, unless the permittee demonstrates by source test that the particulate matter emission limit in section (1) can be achieved at high visible emissions, but in no case shall emissions equal or exceed 20% opacity for more than an aggregate of 3 minutes in any one hour. Specific opacity limits shall be included in the Air Contaminant Discharge Permit for each affected source.

Section 39-040 Kraft Pulp Mills

No person shall cause or permit the emission of particulate matter from kraft pulp mills in excess of the following:

1. Recovery furnaces;
 - A. 0.044 gr/dscf, corrected to 8% O₂, and,
 - B. 35% opacity.

2. Lime Kilns

A. Gas fired, 0.067 gr/dscf, corrected to 10% O₂

B. Liquid fossil fuel fired, 0.13 gr/dscf, corrected to 10% O₂

3. Smelt dissolving tanks, 0.2 lb/ton of black liquor solids (BLS), dry weight.

Section 39-050 Air Conveying systems

1. No person shall cause or permit the emission of particulate matter in excess of 0.1 grains per standard cubic foot from any air conveying systems emitting less than or equal to 10 tons per year of particulate matter to the atmosphere at the time of adoption of this rule.
2. All air conveying systems emitting greater than 10 tons per year of particulate matter to the atmosphere at the time adoption of this rule shall be equipped with a control system with a collection efficiency of at least 98.5%.
3. No person shall cause or permit the emission of an air contaminant which is equal to or greater than 5% opacity from any air conveying system subject to this section.

Section 39-055 Fugitive Dust

1. Construction sites for commercial, industrial or residential subdivisions within the Eugene-Springfield non-attainment area shall provide paved trackout strips or mud cleaning stations on site to reduce mud trackout onto public roads.

Section 39-060 Open Burning

No person shall cause or permit open burning within the Eugene-Springfield non-attainment area.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 40

AIR QUALITY ANALYSIS REQUIREMENTS

Section 40-0010 Purpose

- (1) This title contains the definitions and requirements for air quality analysis. This title does not apply unless a rule in another title refers to this title or a section in this title. For example, title 38 New Source Review, refers to provisions in this title for specific air quality analysis requirements.

Section 40-0020 Definitions

The definitions in LRAPA title 12, title 29, OAR 340-204-0010 and this section apply to this title. If the same term is defined in this section and LRAPA title 12, title 20, or OAR 340-204-0010, the definition in this section applies to this title.

- (1) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:
 - (a) The applicable standards as set forth in 40 CFR parts 60, 61, 62 and 63;
 - (b) The applicable SIP emissions limitation, including those with a future compliance date; or
 - (c) The emissions rate specified as a federally enforceable permit condition.
- (2) "Baseline concentration" means:
 - (a) The ambient concentration level for sulfur dioxide and PM₁₀ that existed in an area during the calendar year 1978. Actual emission increases or decreases occurring before January 1, 1978 must be included in the baseline calculation, except that actual emission increases from any major source or major modification on which construction commenced after January 6, 1975 must not be included in the baseline calculation;
 - (b) The ambient concentration level for nitrogen oxides that existed in an area during the calendar year 1988.
 - (c) The ambient concentration level for PM_{2.5} that existed in an area during the calendar year 2007.
 - (d) If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for the years specified in paragraphs (a) through (c).

- (3) "Baseline concentration year" means the calendar year used to determine the baseline concentration for a particular regulated pollutant in a particular designated area.
- (4) "Competing PSD increment consuming source impacts" means the total modeled concentration above the modeled Baseline Concentration resulting from increased and decreased emissions of all other sources since the baseline concentration year that are expected to cause a significant concentration gradient in the vicinity of the source. Determination of significant concentration gradient may take into account factors including but not limited to ROI formula, spatial distribution of existing emission sources, topography, and meteorology. Allowable Emissions may be used as a conservative estimate of increased emissions, in lieu of actual emissions, in this analysis.
- (5) "Competing AAQS source impacts" means total modeled concentrations of the subject pollutant resulting from allowable emissions of all other sources expected to cause a significant concentration gradient in the vicinity of the source or sources under consideration. Determination of significant concentration gradient may take into account factors including but not limited to ROI formula, spatial distribution of existing emission sources, topography, and meteorology.
- (6) "FLAG" refers to the Federal Land Managers' Air Quality Related Values Work Group Phase I Report -REVISED, published at 75 Federal Register 66125, October 27, 2010.
- (7) "General background concentration" means impacts from natural sources and unidentified sources that were not explicitly modeled, and may be determined based on either this as site-specific ambient monitoring or, with LRAPA approval, on representative ambient monitoring from another location.
- (8) "Nitrogen deposition" means the sum of anion and cation nitrogen deposition expressed in terms of the mass of total elemental nitrogen being deposited. As an example, nitrogen deposition for NH_4NO_3 is 0.3500 times the weight of NH_4NO_3 being deposited.
- (9) "Predicted maintenance area concentration" means the future year ambient concentration predicted by LRAPA in the applicable maintenance plan as follows:
- (a) [Reserved]
- (10) "Range of influence formula" or "ROI formula" means the calculation of the distance in kilometers from the source impact area of the new or modified source to other emission sources that could impact that area. If there is no source impact area, the distance is calculated from the new or modified source. Any location that is closer to the source than the ROI may be considered to be "within the range of influence" of the source. The ROI formula is as follows:
- (a) For PSD Class II and Class III areas, the Range of Influence formula of a competing source (in kilometers) is defined by:
- (A) $\text{ROI (km)} = \text{Q (tons/year)} / \text{K (tons/year km)}.$

(B) Definition of factors used in paragraph (a):

- (i) Maximum ROI is 50 km.
- (ii) Q is the emission rate of the potential competing source in tons per year.
- (iii) K (tons/year km) is a regulated pollutant specific constant as follows:
 - (I) For PM_{2.5}, PM₁₀, SO_x and NO_x, K = 5;
 - (II) For CO, K = 40; and
 - (III) For lead, K = 0.15.

(b) For PSD Class I areas, the Range of Influence of a competing source includes emissions from all sources that occur within the modeling domain of the source being evaluated. LRAPA determines the modeling domain on a case-by-case basis.

(11) "Single source impact" means the modeled impacts from an increase in emissions of regulated pollutants from a source without including the impacts from other sources.

(12) "Source impact area" means an area, or locations, where predicted impacts from the source or modification equal or exceed the Class II significant impact levels set out in Table 1 of LRAPA title 12. This definition only applies to PSD Class II areas and is not intended to limit the distance for PSD Class I modeling.

(13) "Sulfur deposition" means the sum of anion and cation sulfur deposition expressed in terms of the total mass of elemental sulfur being deposited. As an example, sulfur deposition for (NH₄)₂SO₄ is 0.2427 times the weight of (NH₄)₂SO₄ being deposited.

Section 40-0030 Procedural Requirements

When required to conduct an air quality analysis under this title:

- (1) The owner or operator of a source must submit a modeling protocol to LRAPA and have it approved before submitting a permit application; and
- (2) In addition to the requirements defined in 37-0040 for permit applications, the owner or operator of a source must submit all information necessary to perform any analysis or make any determination required under this title. Such information may include, but is not limited to:
 - (a) Emissions data for all existing and proposed emission points from the source or modification. This data must represent maximum emissions for the averaging times by regulated pollutant consistent with the ambient air quality standards in Title 50 – Ambient Air Standards.
 - (b) Stack parameter data, height above ground, exit diameter, exit velocity, and exit temperature, for all existing and proposed emission points from the source or modification,
 - (c) An analysis of the air quality and visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

- (d) An analysis of the air quality and visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, that has occurred since the baseline concentration year, in the area the source or modification would significantly affect.

Section 40-0040 Air Quality Models

All modeled estimates of ambient concentrations required under this title must be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR part 51, Appendix W, "Guidelines on Air Quality Models (Revised)". Where an air quality impact model specified in 40 CFR part 51, Appendix W is inappropriate, the methods published in the FLAG are generally preferred for analyses in PSD Class I areas. Where an air quality impact model other than that specified in 40 CFR part 51, Appendix W is appropriate in PSD Class II and III areas, the model may be modified or another model substituted. Any change or substitution from models specified in 40 CFR part 51, Appendix W is subject to notice and opportunity for public comment and must receive prior written approval from LRAPA and EPA.

Section 40-0045 Requirements for Analysis in Maintenance Areas

Modeling: For determining compliance with the maintenance area impact levels established in 50-065 or OAR 340-202-0225, whichever is most recently adopted, the following methods must be used:

- (1) For each maintenance pollutant, a single source impact analysis is sufficient to show compliance with the maintenance area maximum impact levels if:
 - (a) The modeled impacts from emission increases equal to or greater than an SER above the netting basis due to the proposed source or modification being evaluated are less than the Class II Significant Air Quality Impact Levels specified in title 12, Table 1.
 - (b) The owner or operator provides an assessment of factors that may impact the air quality conditions in the area showing that the SIL by itself is protective of the maintenance area impact levels. The assessment must take into consideration but is not limited to the emission increases and decreases since the baseline concentration year from other sources that are expected to cause a significant concentration gradient in the vicinity of the source. Determination of significant concentration gradient may take into account factors including but not limited to ROI formula, spatial distribution of existing emission sources, topography, and meteorology.
- (2) If the requirement in subsection (1) is not satisfied, the owner or operator of a proposed source or modification must complete a competing source analysis to demonstrate that modeled impacts from the proposed increased emissions plus competing source impacts, plus the predicted maintenance area concentration are less than the maintenance area impact levels in 50-065 or OAR 340-202-0225, whichever is most recently adopted, for all averaging times.
- (3) Any analyses performed under this section must be done in compliance with 40-0030 and 40-0040, as applicable.

Section 40-0050 Requirements for Analysis in PSD Class II and Class III Areas

Modeling: For determining compliance with the AAQS, PSD increments, and other requirements in PSD Class II and Class III areas, the following methods must be used:

- (1) For each regulated pollutant, a single source impact analysis is sufficient to show compliance with the AAQS and PSD increments if:
 - (a) The modeled impacts from emission increases equal to or greater than an SER above the netting basis due to the proposed source or modification being evaluated are less than the Class II significant impact levels specified in title 12, Table 1; and
 - (b) The owner or operator provides an assessment of factors that may impact the air quality conditions in the area to show that the SIL by itself ensures that the proposed source or modification will not cause or contribute to a new violation of an AAQS and PSD increment. The assessment must take into consideration but is not limited to the following factors:
 - (A) The background ambient concentration relative to the AAQS;
 - (B) The emission increases and decreases since the baseline concentration year from other sources that are expected to cause a significant concentration gradient in the vicinity of the source. Determination of significant concentration gradient may take into account factors including but not limited to ROI formula, spatial distribution of existing emission sources, topography, and meteorology.
- (2) If the requirement in subsection (1) is not satisfied, the owner or operator of a proposed source or modification being evaluated must complete a competing source analysis as follows:
 - (a) For demonstrating compliance with the PSD Class II and III increments (as defined in 50-055, Table 1 or OAR 340-202-0210, whichever is more current), the owner or operator of the source or modification must show that modeled impacts from the proposed increased emissions, above the modeled baseline concentration, plus competing PSD increment consuming source impacts above the modeled baseline concentration are less than the PSD increments for all averaging times; and
 - (b) For demonstrating compliance with the AAQS, the owner or operator of the source must show that the total modeled impacts plus total competing source impacts plus general background concentrations are less than the AAQS for all averaging times.
- (3) The owner or operator of a source must also provide an analysis of:
 - (a) The impairment to visibility, soils and vegetation that would occur as a result of the source or modification, and general commercial, residential, industrial and other growth associated with the source or modification. As a part of this analysis, deposition modeling analysis is required for sources emitting heavy metals above the SERs as defined in title 12, Table 2. Concentration and deposition modeling may also be required for sources emitting other compounds on a case-by-case basis; and

- (b) The air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.
- (4) Any analyses performed under this section must be done in compliance with 40-0030 and 40-0040, as applicable.

Section 40-0060 Requirements for Demonstrating Compliance with Standards and Increments in PSD Class I Areas

For determining compliance with AAQS and PSD increments in PSD Class I areas, the following methods must be used:

- (1) Before Jan. 1, 2003, the owner or operator of a source must model impacts and demonstrate compliance with standards and increments on all PSD Class I areas that may be affected by the source or modification.
- (2) On or after Jan. 1, 2003, the owner or operator of a source must meet the following requirements:
 - (a) For each regulated pollutant, a single source impact analysis is sufficient to show compliance with PSD increments if modeled impacts from emission increases equal to or greater than an SER above the netting basis due to the proposed source or modification being evaluated are demonstrated to be less than the Class I significant impact levels specified in title 12, Table I. If this requirement is not satisfied, the owner or operator must complete a competing source analysis to demonstrate that the increased source impacts above baseline concentration plus competing PSD increment consuming source impacts are less than the PSD Class I increments for all averaging times.
 - (b) For each regulated pollutant, a single source impact analysis is sufficient to show compliance with AAQS if modeled impacts from emission increases equal to or greater than an SER above the netting basis due to the proposed source or modification being evaluated are demonstrated to be less than the Class I significant impact levels specified in title 12, Table 1. If this requirement is not satisfied, the owner or operator must complete a competing source analysis to demonstrate compliance with the AAQS by showing that its total modeled impacts plus total modeled competing source impacts plus general background concentrations are less than the AAQS for all averaging times.
 - (c) The owner or operator also must demonstrate that the proposed source or modification will not cause or contribute to a new violation of an ambient air quality standard or PSD increment even if the single source impact is less than the significant impact levels under paragraphs (a) and (c), in accordance with 50-055, Table 1 or OAR 340-202-0210, whichever is more current.
- (3) Any analyses performed under this section must be done in compliance with 40-0030 and 40-0040, as applicable.

Section 40-0070 Requirements for Demonstrating Compliance with Air Quality Related Values Protection

- (1) Sources that are not federal major sources are exempt from the requirements of this section.
- (2) When directed by title 38, the requirements of this section apply to each emissions unit that increases the actual emissions of a regulated pollutant above the portion of the netting basis attributable to that emissions unit.
- (3) LRAPA must provide notice of permit applications involving AQRV analysis to EPA and Federal Land Managers as follows:
 - (a) If a proposed major source or major modification could impact air quality related values, including visibility, deposition, and ozone impacts within a Class I area, LRAPA will provide written notice to EPA and to the appropriate Federal Land Manager within 30 days of receiving such permit application. The notice will include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area air quality related values. LRAPA will also provide at least 30 days notice to EPA and the appropriate Federal Land Manager of any scheduled public hearings and preliminary and final actions taken on the application;
 - (b) If LRAPA receives advance notice of a permit application for a source that may affect Class I area visibility, LRAPA will notify all affected Federal Land Managers within 30 days of receiving the advance notice;
 - (c) During its review of source impacts on Class I area air quality related values, pursuant to this rule, LRAPA will consider any analysis performed by the Federal Land Manager that is received by LRAPA within 30 days of the date that LRAPA sent the notice required by paragraph (a). If LRAPA disagrees with the Federal Land Manager's demonstration, LRAPA will include a discussion of the disagreement in the Notice of Public Hearing;
 - (d) As a part of the notification required in 31-0060, LRAPA will provide the Federal Land Manager an opportunity to demonstrate that the emissions from the proposed source or modification would have an adverse impact on air quality related values, of any federal mandatory Class I area. This adverse impact determination may be made even if there is no demonstration that a Class I PSD increment has been exceeded. If LRAPA agrees with the demonstration, it will not issue the permit.
- (4) Visibility impact analysis requirements:
 - (a) If title 38 requires a visibility impact analysis, the owner or operator must demonstrate that the potential to emit any regulated pollutant at an SER in conjunction with all other applicable emission increases or decreases, including secondary emissions, permitted since January 1, 1984 and other increases or decreases in emissions, will not cause or contribute to significant impairment of visibility on any Class I area.
 - (b) The owner or operator must conduct a visibility analysis on the Columbia River Gorge National Scenic Area if it is affected by the source;
 - (c) The owner or operator must submit all information necessary to perform any analysis or demonstration required by these rules.

- (d) Determination of significant impairment: The results of the modeling must be sent to the affected Federal Land Managers and LRAPA. The land managers may, within 30 days following receipt of the source's visibility impact analysis, determine whether or not significant impairment of visibility in a Class I area would result. LRAPA will consider the comments of the Federal Land Manager in its consideration of whether significant impairment of visibility in a Class I area will result. If LRAPA determines that significant impairment of visibility in a Class I area would result, it will not issue a permit for the proposed source.
- (5) In consultation with the Federal Land Managers under FLAG, LRAPA may require a plume blight analysis or regional haze analysis, or both.
- (6) Criteria for visibility impacts:
 - (a) The owner or operator of a source, where required by title 38, is encouraged to demonstrate that its impacts on visibility satisfy the guidance criteria as referenced in the FLAG.
 - (b) If visibility impacts are a concern, LRAPA will consider comments from the Federal Land Manager when deciding whether significant impairment will result. Emission offsets may also be considered. If LRAPA determines that significant impairment of visibility in a Class I area would result, it will not issue a permit for the proposed source.
- (7) Deposition modeling may be required for receptors in PSD Class I areas and the Columbia River Gorge National Scenic Area where visibility modeling is required. This may include, but is not limited to an analysis of nitrogen deposition and sulfur deposition.
- (8) Visibility monitoring:
 - (a) If title 38 requires visibility monitoring data, the owner or operator must use existing data to establish existing visibility conditions within Class I areas as summarized in the FLAG Report.
 - (b) After construction has been completed the owner or operator must conduct such visibility monitoring if LRAPA requires visibility monitoring as a permit condition to establish the effect of the regulated pollutant on visibility conditions within the impacted Class I area.
- (9) Additional impact analysis: The owner or operator subject to 38-0060(2) or 38-0070(3) must provide an analysis of the impact to visibility that would occur as a result of the proposed source or modification and general commercial, residential, industrial, and other growth associated with the source.
- (10) If the Federal Land Manager recommends and LRAPA agrees, LRAPA may require the owner or operator to analyze the potential impacts on other Air Quality Related Values and how to protect them. Procedures from the FLAG report must be used in this recommendation. Emission offsets may also be used. If the Federal Land Manager finds that significant impairment of visibility in a Class I area would result from the proposed activities and LRAPA agrees, LRAPA will not issue a permit for the proposed source.

- (11) Any analyses performed under this section must be done in compliance with 40-0030 and 40-0040, as applicable.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 41

EMISSION REDUCTION CREDITS

Section 41-0010 Applicability

This title applies to any person who wishes to create or bank an emission reduction credit in Lane County.

Section 41-0020 Definitions

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

Section 41-0030 Emission Reduction Credits

Any person who reduces emissions by implementing more stringent controls than required by a permit or an applicable regulation may create an emission reduction credit. Emission reduction credits must be created and banked within two years from the time of actual emission reduction.

- (1) Creating Emission Reduction Credits. Emission reductions can be considered credits if all of the following requirements are met:
 - (a) The reduction is permanent due to continuous overcontrol, curtailment or shutdown of an existing activity or device.
 - (b) The reduction is in terms of actual emissions reduced at the source. The amount of the creditable reduction is the difference between the contemporaneous (any consecutive 12 calendar month period during the prior 24 calendar months) pre-reduction actual (or allowable, whichever is less) emissions and the post-reduction allowable emissions from the subject activity or device.
 - (c) The reduction is either:
 - (A) Enforceable by LRAPA through permit conditions or rules adopted specifically to implement the reduction that make increases from the activity or device creating the reduction a violation of a permit condition, or
 - (B) The result of a physical design that makes such increases physically impossible.
 - (d) The reduction is surplus. Emission reductions must be in addition to any emissions used to attain or maintain AAQS in the SIP.
 - (e) Sources in violation of air quality emission limitations may not create emission reduction credits from those emissions that are or were in violation of air quality emission limitations.

- (f) Hazardous emissions reductions required to meet the MACT standards at 40 CFR part 61 and part 63, including emissions reductions to meet the early reduction requirements of section 112(i)(5), are not creditable as emission reduction credits for purposes of Major NSR in nonattainment or reattainment areas. However, any emissions reductions that are in excess of or incidental to the MACT standards are not precluded from being credited as emission reduction credits as long as all conditions of a creditable emission reduction credit are met.

(2) Banking of Emission Reduction Credits.

- (a) The life of emission reduction credits may be extended through the banking process as follows:

- (A) Emission reduction credits may be banked for ten (10) years from the time of actual emission reduction.

- (B) Requests for emission reduction credit banking must be submitted within the 2-year (24 calendar month) contemporaneous time period immediately following the actual emission reduction. (The actual emission reduction occurs when the airshed experiences the reduction in emissions, not when a permit is issued or otherwise changed).

- (b) Banked emission reduction credits are protected during the banked period from rule required reduction, if LRAPA receives the emission reduction credit banking request before LRAPA submits a notice of a proposed rule or plan development action for publication of the new rule. LRAPA may reduce the amount of any banked emission reduction credit that is protected under this section, if LRAPA determines the reduction is necessary to attain or maintain an ambient air quality standard.

- (c) Emission reductions must be in the amount of ten (10) tons per year or more to be creditable for banking, except as follows:

- (A) In the Oakridge nonattainment area, PM_{2.5} emission reductions must be at least 1 ton per year.

- (d) Emission reduction credits will not expire pending LRAPA taking action on a timely banking request unless the ten (10) year period available for banking expires.

(3) Using Emission Reduction Credits: Emission reduction credits may be used for:

- (a) Netting actions within the source that generated the credit, through a permit modification; or

- (b) Offsets pursuant to the NSR program, title 38.

- (4) Emission reduction credits are considered used when a complete NSR permit application is received by LRAPA to apply the emission reduction credits to netting actions within the source that generated the credit, or to meet the offset and net air quality benefit requirements of the NSR program under 38-0500 through 38-0540.

(5) Unused Emission Reduction Credits

- (a) Emission reduction credits that are not used, and for which LRAPA does not receive a request for banking within the contemporaneous time period, will become unassigned emissions for purposes of the PSEL and are no longer available for use as external offsets.
- (b) Emission reduction credits that are not used prior to the expiration date of the credit will revert to the source that generated the credit and will be treated as unassigned emissions for purposes of the PSEL pursuant to 42-0055 and are no longer available for use as external offsets.

(6) Emission Reduction Credit (ERC) Permit

- (a) LRAPA tracks ERC creation and banking through the permitting process. The holder of ERCs must maintain either an ACDP, Title V permit, or an ERC Permit.
- (b) LRAPA issues ERC Permits for anyone who is not subject to the ACDP or Title V programs that requests an ERC or an ERC to be banked.
- (c) An ERC permit will only contain conditions necessary to make the emission reduction enforceable and track the credit.
- (d) Requests for emission reduction credit banking must be submitted in writing to LRAPA and contain the following documentation:
 - (A) A detailed description of the activity or device controlled or shut down;
 - (B) Emission calculations showing the types and amounts of actual emissions reduced, including pre-reduction actual emission and post-reduction allowable emission calculations;
 - (C) The date or dates of actual reductions;
 - (D) The procedure that will render such emission reductions permanent and enforceable;
 - (E) Emission unit flow parameters including but not limited to temperature, flow rate and stack height;
 - (F) Description of short and long term emission reduction variability, if any.
- (e) Requests for emission reduction credit banking must be submitted to LRAPA within two years (24 months) of the actual emissions reduction. LRAPA must approve or deny requests for emission reduction credit banking before they are effective. In the case of approvals, LRAPA issues a permit to the owner or operator defining the terms of such banking. LRAPA insures the permanence and enforceability of the banked emission reductions by including appropriate conditions in permits and, if necessary, by recommending appropriate revisions to the SIP.
- (f) LRAPA provides for the allocation of emission reduction credits in accordance with the uses specified by the holder of the emission reduction credits. The holder of ERCs must

notify LRAPA in writing when they are transferred to a new owner or site. Any use of emission reduction credits must be compatible with local comprehensive plans, statewide planning goals, and state laws and rules.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 42

STATIONARY SOURCE PLANT SITE EMISSION LIMITS

Section 42-0010 Policy

LRAPA recognizes the need to establish a more definitive method for regulating increases and decreases in air emissions of permit holders. However, except as needed to protect ambient air quality standards, PSD increments and visibility, LRAPA does not intend to: limit the use of existing production capacity of any air quality permittee; cause any undue hardship or expense to any permittee who wishes to use existing unused productive capacity; or create inequity within any class of permittees subject to specific industrial standards that are based on emissions related to production.

Section 42-0020 Applicability

- (1) Plant Site Emission Limits (PSELs) will be included in all Air Contaminant Discharge Permits (ACDP) and LRAPA Title V Operating Permits, except as provided in section 42-0020-3., as a means of managing airshed capacity by regulating increases and decreases in air emissions. Except as provided in 42-0035(5) and 42-0060, all ACDP and Title V sources are subject to PSELs for all regulated pollutants listed in the definition of SER in title 12. LRAPA will incorporate PSELs into permits when issuing a new permit or renewing or modifying an existing permit.
- (2) The emissions limits established by PSELs provide the basis for:
 - (a) Assuring reasonable further progress toward attaining compliance with ambient air quality standards;
 - (b) Assuring compliance with ambient air quality standards and PSD increments;
 - (c) Administering offset and banking programs; and
 - (d) Establishing the baseline for tracking the consumption of PSD Increments.
- (3) PSELs are not required for:
 - (a) Regulated pollutants that will be emitted at less than the de minimis emission level listed in LRAPA Title 12 from the entire source;
 - (b) Short Term Activity and Basic ACDPs;
 - (c) Hazardous air pollutants as listed in LRAPA title 44 Table 1; high-risk pollutants listed in 40 CFR 63.74; or accidental release substances listed in 40 CFR 68.130; or air toxics listed in OAR 340 division 246; except that PSELs are required for pollutants identified in this subsection that are also listed in the definition of SER, title 12.

- (4) PSELs may be generic PSELs, source specific PSELs set at the generic PSEL levels, or source specific PSELs set at source specific levels.
 - (a) A source with a generic PSEL cannot maintain a netting basis for that regulated pollutant.
 - (b) A source with a source specific PSEL that is set at the generic PSEL level may maintain a netting basis for that regulated pollutant provided the source is operating under a Standard ACDP or LRAPA Title V Operating permit.

Section 42-0030 Definitions

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

Criteria for Establishing Plant Site Emission Limits

Section 42-0035 General Requirements for Establishing All PSELs

- (1) PSELs may not exceed limits established by any applicable federal or state regulation or by any specific permit conditions unless the source meets the specific provisions of 32-100 (Alternative Emission Controls).
- (2) LRAPA may change source specific PSELs at the time of a permit renewal, or if LRAPA modifies a permit pursuant to 37-0084, Agency Initiated Modifications, or OAR 340-218-0200, Reopenings, if:
 - (a) LRAPA determines errors were made in calculating the PSELs or more accurate and reliable data is available for calculating PSELs; or
 - (b) More stringent control is required by a rule adopted by the Board or EQC.
- (3) PSEL reductions required by rule, order or permit condition will be effective on the compliance date of the rule, order, or permit condition.
- (4) Annual PSELs apply on a rolling 12 consecutive month basis and limit the source's potential to emit.
- (5) PSELs do not include emissions from categorically insignificant activities. Emissions from categorically insignificant activities must be considered when determining Major NSR or Type A State NSR applicability under title 38.
- (6) PSELs must include aggregate insignificant emissions, if applicable.

NOTE: This rule was moved verbatim from 42-0043 and 42-0070 and amended.

Section 42-0040 Generic Annual PSEL

- (1) Sources with capacity less than the SER will receive a generic PSEL unless they have a netting basis and request a source specific PSEL under 42-0041.
- (2) A generic PSEL may be used for any regulated pollutant that will be emitted at less than the SER. The netting basis for a source with a generic PSEL is zero (0).
- (3) The netting basis for a source with a generic PSEL is zero for that regulated pollutant.

Section 42-0041 Source Specific Annual PSEL

- (1) For sources with potential to emit less than the SER that request a source specific PSEL, the source specific PSEL will be set equal to the generic PSEL level.
- (2) For sources with potential to emit greater than or equal to the SER, the source specific PSEL will be set equal to the source's potential to emit, netting basis or a level requested by the applicant, whichever is less, except as provided in subsection (3) or (4).
- (3) The initial source specific PSEL for PM_{2.5} for a source that was permitted on or before May 1, 2011 with potential to emit greater than or equal to the SER will be set equal to the PM_{2.5} fraction of the PM₁₀ PSEL in effect on May 1, 2011.
 - (a) Any source with a permit in effect on May 1, 2011 is eligible for an initial PM_{2.5} PSEL without being otherwise subject to 42-0041(4).
 - (b) For a source that had a permit in effect on May 1, 2011 but later needs to correct its PM₁₀ PSEL that was in effect on May 1, 2011 due to more accurate or reliable information, the corrected PM₁₀ PSEL will be used to correct the initial PM_{2.5} PSEL.
 - (A) Correction of a PM₁₀ PSEL will not by itself trigger 42-0041(4) for PM_{2.5}.
 - (B) Correction of a PM₁₀ PSEL could result in further requirements for PM₁₀ in accordance with all applicable regulations.
 - (c) If after establishing the initial PSEL for PM_{2.5} in accordance with this rule and establishing the initial PM_{2.5} netting basis in accordance with 42-0046, the PSEL is more than nine tons above the netting basis, any future increase in the PSEL for any reason would be subject to 42-0041(4).
- (4) If an applicant wants an annual PSEL at a rate greater than the netting basis, the applicant must, consistent with 42-0035:
 - (a) Demonstrate that the requested increase over the netting basis is less than the SER; or
 - (b) For increases equal to or greater than the SER over the netting basis, demonstrate that the applicable Major NSR or State NSR requirements in title 38 have been satisfied, except that an increase in the PSEL for GHGs is subject to the requirements of NSR specified in 38-0010(1)(c) only if the criteria in 38-0010(1)(c) are met.

- (5) If the netting basis is adjusted in accordance with 42-0051(3), then the source specific PSEL is not required to be adjusted.
- (6) For sources that meet the criteria in paragraphs (a), (b) and (c), the requirements of 42-0041(4) do not immediately apply, but any future increase in the PSEL greater than or equal to the de minimis level for any reason is subject to 42-0041(4).
 - (a) A PSEL is established or revised to include emissions from activities that both existed at a source and were defined as categorically insignificant activities prior to January 11, 2018;
 - (b) The PSEL exceeds the netting basis by more than or equal to the SER solely as a result of a revision described in paragraph (a); and
 - (c) The source would not have been subject to Major NSR or Type A State NSR under the applicable requirements of title 38 prior to January 11, 2018 if categorically insignificant activities had been considered.

Section 42-0042 Short Term PSEL

- (1) For sources located in areas with an established short term SER that is measured over an averaging period less than a full year, PSELs are required on a short term basis for those regulated pollutants that have a short term SER. The short term averaging period is daily, unless emissions cannot be monitored on a daily basis. The averaging period for short term PSELs can never be greater than monthly.
 - (a) For new and existing sources with potential to emit less than the short term SER, the short term PSEL will be set equal to the level of the short term generic PSEL.
 - (b) For existing sources with potential to emit greater than or equal to the short term SER, a short term PSEL will be set equal to the source's short term potential to emit or to the current permit's short term PSEL, whichever is less.
 - (c) For new sources with potential to emit greater than or equal to the short term SER, the initial short term PSEL will be set at the level requested by the applicant provided the applicant meets the requirements of paragraph (2)(b).
- (2) If a permittee requests an increase in a short term PSEL that will exceed the short term netting basis by an amount equal to or at a rate greater than the initial short term SER, the permittee must satisfy the requirements of paragraphs (a) or (b). In order to satisfy the requirements of paragraph (a) or (b), the short term PSEL increase must first be converted to an annual increase by multiplying the short term increase by 8,760 hours, 365 days, or 12 months, depending on the term of the short term PSEL.
 - (a) Obtain offsets in accordance with the offset provisions for the designated area as specified in 38-0510 through 38-0530, as applicable; or;
 - (b) Obtain an allocation from an available growth allowance in accordance with the applicable maintenance plan.

- (3) Once the short term PSEL is increased pursuant to subsection (2), the increased level becomes the basis initial for evaluating future increases in the short term PSEL.

Section 42-0046 Netting Basis

- (1) A netting basis will only be established for those regulated pollutants that could subject a source to NSR under title 38.
- (a) The initial PM_{2.5} netting basis for a source that was permitted prior to May 1, 2011 will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.
- (b) The initial greenhouse gas netting basis for a source will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.
- (2) A source's netting basis is established as specified in paragraph (a), (b), or (c) and will be adjusted according to subsection (3):
- (a) For all regulated pollutants except for PM_{2.5}, a source's initial netting basis is equal to the baseline emission rate.
- (b) For PM_{2.5}, a source's initial netting basis is equal to the overall PM_{2.5} fraction of the PM₁₀ PSEL in effect on May 1, 2011 multiplied by the PM₁₀ netting basis in effect on May 1, 2011. LRAPA may increase the initial PM_{2.5} netting basis by not more than 5 tons to ensure that the PM_{2.5} PSEL does not exceed the PM_{2.5} netting basis by more than the PM_{2.5} SER.
- (A) Any source with a permit in effect on May 1, 2011 is eligible for a PM_{2.5} netting basis without being otherwise subject to 42-0041(4).
- (B) For a source that had a permit in effect on May 1, 2011 but later needs to correct its PM₁₀ netting basis that was in effect on May 1, 2011, due to more accurate or reliable information, the corrected PM₁₀ netting basis will be used to correct the initial PM_{2.5} netting basis.
- (i) Correction of a PM₁₀ netting basis will not by itself trigger 42-0041(4) for PM_{2.5}.
- (ii) Correction of a PM₁₀ netting basis could result in further requirements for PM₁₀ in accordance with all applicable regulations.
- (c) A source's netting basis is zero for:
- (A) Any regulated pollutant emitted from a source that first obtained a permit to construct and operate after the applicable baseline period for that regulated pollutant, and has not undergone NSR for that regulated pollutant except as provided in paragraph (2)(b) for PM_{2.5};

(B) Any regulated pollutant that has a generic PSEL in a permit; or

(C) Any source permitted as portable.

(3) A source's netting basis will be adjusted as follows:

(a) The netting basis will be reduced by any emission reductions required under a rule, order, or permit condition issued by the Board or LRAPA and required by the SIP or used to avoid any state (e.g., NSR) or federal requirements (e.g., NSPS, NESHAP), as of the effective date of the rule, order or permit condition;

(A) Netting basis reductions are effective on the effective date of the rule, order or permit condition that requires the reductions;

(B) Netting basis reductions may only apply to sources that are permitted, on the effective date of the applicable rule, order or permit condition, to operate the affected devices or emissions units that are subject to the rule, order, or permit condition requiring emission reductions;

(C) Netting basis reductions will include reductions for unassigned emissions for devices or emissions units that are affected by the rule, order or permit condition, if the shutdown or over control that created the unassigned emissions occurred within five years prior to the adoption of the rule, order or permit condition that required an emission reduction unless the unassigned emissions have been used for internal netting actions. This provision applies to emission reductions that have been placed in unassigned emissions or that are eligible to be placed in unassigned emissions but the permit that would place them in unassigned emissions has not been issued.

(D) Netting basis reductions will not affect emission reduction credits established under title 41.

(E) Netting basis reductions for the affected devices or emissions units will be determined consistent with the approach used to determine the netting basis prior to the regulatory action reducing the emissions. The netting basis reduction is the difference between the emissions calculated using the previous emission rate and the emission rate established by rule, order, or permit using appropriate conversion factors when necessary.

(F) The netting basis reductions will not include emissions reductions achieved under 32-006, 32-007, or title 44;

(b) The netting basis will be reduced by any unassigned emissions that are reduced under 42-0055(3)(a);

(c) The netting basis will be reduced by the amount of emission reduction credits transferred off site in accordance with title 41;

(d) The netting basis will be reduced when actual emissions are reduced according to 42-0051(3);

- (e) The netting basis will be increased by any of the following:
 - (A) For sources that obtained a permit on or after January 11, 2018, any emission increases approved through Major NSR or Type A State NSR action under title 38;
 - (B) For sources that obtained a permit prior to January 11, 2018, any emission increases approved through the NSR regulations in title 38 in effect at the time; or
 - (C) For sources where the netting basis was increased in accordance with the LRAPA PSD rules that were in effect prior to July 1, 2010, the netting basis may include emissions from emission units that were not subject to both an air quality analysis and control technology requirements if the netting basis had been increased following the rules in effect at the time.
- (f) The netting basis will be increased by any emissions from activities previously classified as categorically insignificant prior to January 11, 2018, provided the activities existed during the baseline period or at the time of the last NSR permitting action that changed the netting basis under paragraph (e).
- (4) In order to maintain the netting basis, permittees must maintain either a Standard ACDP or an LRAPA Title V Operating Permit. A request to be assigned any other type of ACDP sets the netting basis at zero upon issuance of the other type of permit and remains at zero unless an increase is approved under paragraph (3)(e).
- (5) If a source relocates to a different site that LRAPA determines is within or affects the same airshed, and the time between operation at the old and new sites is less than six months, the source may retain the netting basis from the old site.
- (6) A source's netting basis for a regulated pollutant with a revised definition will be corrected if the source is emitting the regulated pollutant at the time the definition is revised and the regulated pollutant is included in the source's netting basis.
- (7) Where EPA requires an attainment demonstration based on dispersion modeling, the netting basis must not be more than the level used in the dispersion modeling to demonstrate attainment with the ambient air quality standard (i.e., the attainment demonstration is an emission reduction required by rule).

NOTE: This section was moved verbatim from title 12 and amended.

Section 42-0048 Baseline Period and Baseline Emission Rate

- (1) The baseline period used to calculate the baseline emission rate is either:
 - (a) For any regulated pollutant other than GHG and PM_{2.5}, calendar years 1977 or 1978. LRAPA may allow the use of a prior time period upon a determination that it is more representative of normal source operation.
 - (b) For GHGs, any consecutive 12 calendar month period during calendar years 2000 through 2010.

- (c) For a pollutant that becomes a regulated pollutant subject to title 38 after May 1, 2011, any consecutive 12 calendar month period within the 24 months immediately preceding the pollutant's designation as a regulated pollutant if a baseline period has not been defined for the regulated pollutant.
- (2) A baseline emission rate will only be established for those regulated pollutants subject to title 38.
- (3) A baseline emission rate will not be established for PM_{2.5}.
- (4) The baseline emission rate for GHGs, on a CO_{2e} basis, will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.
- (5) For a pollutant that becomes a regulated pollutant subject to title 38 after May 1, 2011, the initial baseline emission rate is the actual emissions of that regulated pollutant during the baseline period.
- (6) The baseline emission rate will be recalculated only under the following circumstances:
 - (a) For GHGs, if actual emissions are reset in accordance with 42-0051(3).
 - (b) If a material mistake or an inaccurate statement was made in establishing the production basis for the baseline emission rate;
 - (c) If a more accurate or reliable emission factor is available; or
 - (d) If emissions units that were previously not included in baseline emission rate must be included as a result of rule changes.
- (7) The baseline emission rate is not affected if emission reductions are required by rule, order, or permit condition.

NOTE: This section was moved verbatim from title 12 and amended.

Section 42-0051 Actual Emissions

- (1) A source's actual emissions as of the baseline period are the sum total of the actual emissions from each part of the source for each regulated pollutant. The actual emissions as of the baseline period will be determined to be:
 - (a) Except as provided in paragraphs (b) and (c) and subsection (2), the average rate at which the source actually emitted the regulated pollutant during normal source operations over an applicable baseline period;
 - (b) The source-specific mass emissions limit included in a source's permit that was effective on September 8, 1981 if such emissions are within 10% of the actual emissions calculated under paragraph (a); or

- (c) The potential to emit of the source or part of a source as specified in subparagraphs (A) and (B). The actual emissions will be reset if required in accordance with subsection (3).
 - (A) Any source or part of a source that had not begun normal operations during the applicable baseline period but was approved to construct and operate before or during the baseline period in accordance with LRAPA title 34, or 37, or was not required to obtain approval to construct and operate before or during the applicable baseline period; or
 - (B) Any source or part of a source that will emit greenhouse gases that had not begun normal operations prior to January 1, 2010, but was approved to construct and operate prior to January 1, 2011 in accordance with LRAPA title 34 or 37.
- (2) For any source or part of a source or any modification of a source or part of a source that had not begun normal operations during the applicable baseline period, but was approved to construct and operate in accordance with LRAPA title 34, 37 or 38, actual emissions of the source or part of the source equal the potential to emit of the source or part of the source on the date source or part of the source was approved to construct and operate.
- (3) For any source or part of a source whose actual emissions of greenhouse gases were determined pursuant to subparagraph (1)(c)(B), and for all other sources of all other regulated pollutants that are permitted in accordance with the Major NSR rules in title 38 on or after May 1, 2011, the potential to emit of the source or part of the source will be reset to actual emissions as follows:
 - (a) Except as provided in paragraph (b), ten years from the end of the applicable baseline period under subparagraph (1)(c)(B) or ten years from the date the permit is issued under subsection (2), or an earlier time if requested by the source in a permit application involving public notice, LRAPA will reset actual emissions of the source or part of the source to equal the highest actual emission rate during any consecutive 12-month period during the ten year period or any shorter period if requested by the source. Actual emissions are determined as follows:
 - (A) The owner or operator must select a consecutive 12-month period and the same 12-month period must be used for all affected regulated pollutants and all affected devices or emissions units; and
 - (B) The owner or operator must determine the actual emissions during that 12-month period for each device or emissions unit that was subject to Major NSR or Type A State NSR action under title 38, or for which the baseline emission rate is equal to the potential to emit.
 - (b) LRAPA may extend the date of resetting by five additional years upon satisfactory demonstration by the source that construction is ongoing or normal operation has not yet been achieved.
 - (c) Any emission reductions achieved due to enforceable permit conditions based on 32-006 and 32-007 are not included in the reset calculation required in paragraph (a).

- (4) Regardless of the PSEL compliance requirements specified in a permit, actual emissions from a source or part of a source may be calculated for any given 12 consecutive month period using data that is considered valid and representative of the source's or part of a source's emissions. Actual emissions must be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

NOTE: This rule was moved verbatim from title 12 and amended.

Section 42-0055 Unassigned Emissions

- (1) Purpose. The purpose of unassigned emissions is to track and manage the difference in the quantity of emissions between the netting basis and what the source could emit based on the facility's current physical and operational design.
- (2) Establishing unassigned emissions.
 - (a) Unassigned emissions equal the netting basis minus the source's current PTE, minus any banked emission reduction credits. Unassigned emissions are zero if this result is negative.
 - (b) Unused capacity created after the effective date of this rule due to reduced potential to emit that is not banked or expired emission reduction credits (Section 41-0030), increase unassigned emissions on a ton for ton basis.
- (3) Maximum unassigned emissions.
 - (a) Except as provided in paragraph (c), unassigned emissions will be reduced to not more than the SER (LRAPA Title 12 – General Provisions and Definitions) on July 1, 2010 and at each permit renewal following that date.
 - (b) The netting basis is reduced by the amount that unassigned emissions are reduced.
 - (c) In an AQMA where the EPA requires an attainment demonstration based on dispersion modeling, unassigned emissions are not subject to reduction under this rule.
- (4) Using unassigned emissions.
 - (a) An existing source may use unassigned emissions for internal netting to allow an emission increase in accordance with the permit.
 - (b) A source may not bank unassigned emissions or transfer them to another source.
 - (c) A source may not use emissions that are removed from the netting basis, including emission reductions required by rule, order or permit condition under 42-0046(3)(a)(C), for netting in any future permit actions.

- (5) Upon renewal, modification or other reopening of a permit after October 14, 2008 the unassigned emissions will be established with an expiration date of July 1, 2010 for all unassigned emissions in excess of the SER. Each time the permit is renewed after July 1, 2010 the unassigned emissions will be established again and reduced upon the following permit renewal to no more than the SER for each regulated pollutant.

NOTE: This rule was moved verbatim from 42-0045 and amended.

Section 42-0060 Plant Site Emission Limits for Sources of Hazardous Air Pollutants

- (1) LRAPA may establish PSELs for hazardous air pollutants (HAPs) if an owner or operator requests that LRAPA:
 - (a) Establish a PSEL for combined HAPs emitted for purposes of determining emission fees as prescribed in OAR 340 division 220; or
 - (b) Create an enforceable PTE limit.
- (2) PSELs will be set only for individual or combined HAPs and will not list HAPs by name. The PSEL will be set on a rolling 12 month basis and will be either:
 - (a) The generic PSEL if the permittee proposes a limit less than that level; or
 - (b) The level the permittee establishes necessary for the source if greater than the generic PSEL.
- (3) The alternative emissions controls (bubble) provisions of 32-100 do not apply to emissions of HAPs.

Section 42-0080 Plant Site Emission Limit Compliance

- (1) The permittee must monitor pollutant regulated emissions or other parameters that are sufficient to produce the records necessary for demonstrating compliance with the PSEL.
- (2) The frequency of the monitoring and associated averaging periods must be as short as possible and consistent with that used in the compliance method.
- (3) Annual and Short-term PSEL Monitoring and Recordkeeping:
 - (a) For annual PSELs, the permittee must monitor appropriate parameters and maintain all records necessary for demonstrating compliance with the annual PSEL at least monthly and be able to determine emissions on a rolling 12 consecutive month basis.
 - (b) For short term PSELs, the permittee must monitor appropriate parameters and maintain all records necessary for demonstrating compliance with any short term PSEL at least as frequently as the short term PSEL averaging period.
- (4) The applicant must specify in the permit application the method that will be used to determine compliance with the PSEL. LRAPA will review the method(s) and approve or

modify, as necessary, to assure compliance with the PSEL. LRAPA will include PSEL compliance monitoring methods in all permits that contain PSELs. Depending on source operations, one or more of the following methods may be acceptable:

- (a) Continuous emissions monitors,
 - (b) Material balance calculations,
 - (c) Emissions calculations using approved emission factors and process information,
 - (d) Alternative production or process limits, and
 - (e) Other methods approved by LRAPA.
- (5) When annual reports are required, the permittee must include the emissions total for each consecutive 12 month period during the calendar year, unless otherwise specified by a permit condition.
- (6) Regardless of the PSEL compliance requirements specified in a permit, actual emissions may be calculated in accordance with 42-0051(4).

Section 42-0090 Combining and Splitting Sources and Changing Primary SIC Code

- (1) Two or more sources may combine into one source if the criteria in paragraph (a) are met. When two or more sources combine into one source under this rule, the combined source is subject to the criteria in paragraph (b).
- (a) Two or more sources may combine into one source only if all of the following criteria are met:
- (A) All individual sources that are being combined must be located within or impact the same airshed; and
 - (B) The combined source must have the same primary 4-digit SIC code as at least one of the individual sources that are being combined.
- (b) The combined source is regulated as one source, subject to the following:
- (A) The combined source netting basis is the sum of the individual sources' netting basis, provided that the netting basis of any individual source being combined may only be included in the combined source's netting basis if that individual source has a primary or secondary 2-digit SIC code that is the same as the primary or a secondary 2-digit SIC code of the combined source.
 - (B) The simple act of combining sources, without an increase over the combined PSEL, does not subject the combined source to Major NSR or State NSR.
 - (C) If the combined source PSEL, without a requested increase over the existing combined PSEL, exceeds the combined netting basis plus the SER, the source may continue operating at the existing combined source PSEL without

becoming subject to NSR until such time that the source requests an increase in the PSEL is requested or the source is modified. If a source requests an increase in the PSEL or the source is modified, LRAPA will evaluate whether NSR will be required.

- (2) When one source is split into two or more separate sources, or when a source changes its primary activity (primary 2-digit SIC code):
 - (a) The netting basis and SER may be transferred to one or more resulting source or sources only if:
 - (A) The primary 2-digit SIC code of the resulting source is the same as one of the primary or secondary 2-digit SIC codes that applied at the original source; or
 - (B) The resulting source and the original source have different primary 2-digit SIC codes but LRAPA determines the activities described by the two different primary 2-digit SIC codes are essentially the same.
 - (b) The netting basis and the SER for the original source is split amongst the resulting sources as requested by the original permittee.
 - (c) The amount of the netting basis that is transferred to the resulting source or sources may not exceed the potential to emit of the existing devices or emissions units involved in the split.
 - (d) The split of netting basis and SER must either:
 - (A) Be sufficient to avoid NSR for each of the newly created sources; or
 - (B) The newly created source(s) that become subject to NSR must comply with the requirements of title 38 before beginning operation under the new arrangement.
- (3) The owner or operator of the source, device or emissions unit must maintain records of physical changes and changes in the method of operation occurring since the baseline period or most recent Major NSR or Type A State NSR action under title 38. These records must be included in any future evaluation under 38-0025 (major modification).

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 43

ASBESTOS REQUIREMENTS

Section 43-001 Policy

The board finds and declares that certain air contaminants for which there is no ambient air standard may cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness, and are therefore considered to be hazardous air contaminants. Under Section 112 of the Federal Clean Air Act, the federal EPA has declared asbestos to be hazardous. Title 43 contains requirements for handling of asbestos. (Section 43-001 Amended 06/11/02)

Section 43-002 Applicability

Sections 43-010 through 43-015-20 apply to asbestos milling, manufacturing, fabricating, abatement, disposal, or any situation where a potential for exposure to asbestos fibers exists. (Section 43-002 Amended 06/11/02 – 7/26/10)

Section 43-005 Definitions

The following definitions are relevant to this title. Additional general definitions can be found in Title 12.

- “Abate” means to eliminate the nuisance or suspected nuisance by reducing or managing the emissions using reasonably available practices. The degree of abatement will depend on an evaluation of all of the circumstances of each case and does not necessarily mean completely eliminating the emissions.
- “Accidental Release” means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.
- “Accredited Inspector” means a person that has completed training and received accreditation under **40 CFR part 763 subpart E, appendix C (Model Accreditation Plan), Section B (Initial Training), Subsection 3 (Inspector), 1994.**
- “Accredited Trainer” means a provider of asbestos abatement training courses authorized by the Department to offer training courses that satisfy requirements for worker training.
- “Act” and “FCAA” mean the Federal Clean Air Act, Public Law 88-206 as last amended by Public Law 101.549.
- “Adequately wet” means to sufficiently mix or penetrate asbestos-containing material with liquid to prevent the release of particulate asbestos materials. An asbestos-containing material is not adequately wetted if visible emissions originate from that material; however, the absence of visible emissions is not sufficient evidence of being adequately wet. Precipitation is not an appropriate method for wetting asbestos-containing material.

- “Agency” means the Lane Regional Air Protection Agency.
- “Agent” means an individual who works on an asbestos abatement project for a contractor but is not an employee of the contractor.
- “Asbestos” means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cumingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.
- “Asbestos Abatement Project” means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling, disturbance or disposal of any material with the potential of releasing asbestos fibers from asbestos-containing material into the air.
- “Asbestos-Containing Material” means asbestos or any material, including particulate material, that contains more than 1% asbestos as determined using the method specified in **40 CFR Part 763 Appendix E, Subpart E, Section 1, Polarized Light Microscopy**.
- “Asbestos-containing waste material” means any waste that contains asbestos tailings or any commercial asbestos and is generated by a source subject to 43-010 and 43-015-1 through 43-015-20, including but not limited to asbestos mill tailings, control device asbestos waste, friable asbestos waste material, asbestos abatement project waste and bags or containers that previously contained commercial asbestos.
- “Asbestos manufacturing operation” means the combining of commercial asbestos, or in the case of woven friction products, the combining of textiles containing commercial asbestos with any other material(s) including commercial asbestos, and the processing of this combination into a product as specified in Section 43-015-3.
- “Asbestos mill” means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos.
- “Asbestos tailings” means any solid waste product of asbestos mining or milling operations that contains asbestos.
- “Asbestos Waste generator” means any person performing an asbestos abatement project or any owner or operator of a source subject to 43-010 and 43-015-1 through 43-015-20 whose act or process generates asbestos-containing waste material.
- “Asbestos waste shipment record” means the shipment document, required to be originated and signed by the asbestos waste generator, used to track and substantiate the disposition of asbestos-containing waste material.
- “Board” means the Board of Directors of the Lane Regional Air Protection Agency.
- “Certified supervisor” means a person who has a current Oregon supervisor certification card.
- “Certified worker” means a person who has a current Oregon worker certification card.

- “Chair” means the chairperson of the Board of Directors of the Lane Regional Air Protection Agency.
- “Commercial asbestos” means any variety of asbestos that is produced by extracting asbestos from asbestos ore.
- “Commission” means the Oregon Environmental Quality Commission.
- “Contractor” means a person who undertakes for compensation an asbestos abatement project for another person.
- “Compensation” means wages, salaries, commissions and any other form of remuneration paid to a person for personal services.
- “Demolish” or “Demolition” means the wrecking or removal of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.
- “Department” means the Oregon Department of Environmental Quality.
- “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.
- “Emission” means a release into the ambient air of air contaminants.
- “EPA” means the United States Environmental Protection Agency.
- “Fabricating” means any processing (e.g., cutting, sawing, drilling) of a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products, fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating.
- “Facility” means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel including but not limited to ships.
- “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 the Agency, except a claim of personal liability.
- “Friable asbestos-containing material” means any asbestos-containing material that can be crumbled, pulverized or reduced to powder by hand pressure when dry. Friable asbestos material includes any asbestos-containing material that is shattered or subjected to sanding, grinding, sawing, abrading or has the potential to release asbestos fibers.
- “Fugitive emissions” means any emissions which escape from a point or area that is not identifiable as a stack, vent, duct or equivalent opening.

- “Hazardous air contaminant” means any air contaminant considered by the Agency, Department or Commission to cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating irreversible illness and for which no ambient air standard exists.
- “Hazardous Air Pollutant (HAP)” means an air pollutant listed by the EPA pursuant to **Section 112(b) of the FCAA** or determined by the Commission and/or Board to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.
- “Hazardous Waste” means a hazardous waste as defined in 40 CFR 261.3.
- “HEPA filter” means a high-efficiency particulate air filter capable of filtering 0.3 micrometer particles with 99.97 percent efficiency.
- “Inactive asbestos waste disposal site” means any disposal site for asbestos-containing waste where the operator has allowed the Department's solid waste permit to lapse, has gone out of business, or no longer receives asbestos-containing waste.
- “Interim storage of asbestos-containing material” means the storage of asbestos-containing waste material that has been placed in a container outside a regulated area until transported to an authorized landfill.
- “LRAPA” means the Lane Regional Air Protection Agency, a regional air quality control authority.
- “Major Source,” as used in this Title, is the same as the definition of major source in **OAR 340-200-0020**.
- “Negative pressure enclosure” means any enclosure of an asbestos abatement project area where the ambient air pressure is greater than the air pressure within the enclosure, and the air inside the enclosure is changed at least four times an hour by exhausting it through a HEPA filter.
- “Non-friable asbestos-containing material” means any asbestos-containing material that cannot be crumbled, pulverized, or reduced to powder by hand pressure. Non-friable asbestos-containing material does not include material that has been subjected to shattering, sanding, grinding, sawing, or abrading or that has the potential to release asbestos fibers.
- “Open Accumulation” means any accumulation, including interim storage, of friable asbestos-containing materials or asbestos-containing waste material other than material securely enclosed and stored as required by subsection 43-015-19 and 43-015-20.
- “Owner or operator” means any person who owns, leases, operates, controls or supervises a facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.
- “Particulate asbestos material” means any finely divided particles of asbestos material.

- “Person” means any individual, public or private corporation, association, firm, partnership, joint stock company, public and municipal corporation, political subdivision, agency, board, department, or bureau of the state and any agency thereof, and the federal government and any agency thereof, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- “Person in Charge of Property” means an agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property.
- “Renovate” or “renovation” means altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or removed are considered demolition and are not included in the definition of renovation.
- “Roadways” mean surfaces on which vehicles travel. This term includes public and private highways, roads, streets, parking areas, and driveways.
- “Section 112(b)” means that subsection of the FCAA that includes the list of hazardous air pollutants to be regulated.
- “Shattered” means the condition of an asbestos-containing material that has been broken into four (4) or more pieces from its original whole condition.
- “Small-scale, short-duration activity” means a task for which the removal of asbestos is not the primary objective of the job, including, but not limited to:
 - A. Removal of asbestos-containing insulation on pipes, not to exceed amounts greater than those which can be contained in a single glove bag;
 - B. Removal of small quantities of asbestos-containing insulation on beams or above ceilings;
 - C. Replacement of an asbestos-containing gasket on a valve;
 - D. Installation or removal of a small section of drywall;
 - E. Installation of electrical conduits through or proximate to asbestos-containing materials;
 - F. Minor repairs to damaged thermal system insulation that does not require removal;
 - G. Repairs to asbestos-containing wallboard; or
 - H. Repairs involving encapsulation, enclosure, or removal of small amounts of friable asbestos-containing material in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement. Such work may not exceed amounts greater than those that can be contained in a single prefabricated mini-enclosure. Such an enclosure must conform spatially and geometrically to the localized work area, in order to perform its intended containment function.
 - I. No such activity described above shall result in airborne asbestos concentrations above 0.1 fibers per cubic centimeter of air (calculated on an 8-hour weighted average).

- “Startup” means commencement of operation of a new or modified source resulting in release of contaminants to the ambient air.
- “Structural member” means any load-supporting member, such as beams and load-supporting walls, or any non-supporting member, such as ceilings and non-load-supporting walls.
- “Survey” means to conduct a detailed inspection of a building, structure, or facility for the presence of asbestos-containing material by an accredited inspector and include sampling of materials suspected to contain asbestos, analysis of those samples to determine asbestos content, and evaluation of the materials in order to assess their condition.
- “Waste generator” means any person performing an asbestos abatement project or any owner or operator of a source covered by this section whose act or process generates asbestos-containing waste material.
- “Waste shipment record” means the shipment document, required to be originated and signed by the waste generator; used to track and substantiate the disposition of asbestos-containing waste material.

(Section 43-005 amended 06/11/02, 7/26/2010, 06/08/2017)

Section 43-010 General Provisions

1. No person may openly accumulate friable asbestos-containing material or asbestos-containing waste material.
2. Contractors working on asbestos abatement projects at a secure facility must insure that all security clearance requirements are completed before asbestos abatement projects at a secure facilities start so Agency inspectors may gain immediate access to perform required asbestos abatement project inspections.

(Section 43-010 Amended 06/11/02)

Section 43-015 Emission Standards and Procedural Requirements for Asbestos

1. EMISSIONS STANDARDS FOR ASBESTOS MILLS. No person may cause or allow to be discharged into the atmosphere any visible emissions, including fugitive emissions, from any asbestos milling operation, except as provided under 43-015-16, Air Cleaning. For purposes of these rules, the presence of uncombined water in the emission plume is not a violation of the visible emission requirement. Outside storage of asbestos materials is not part of an asbestos mill. The owner or operator of an asbestos mill must meet the following requirements:
 - A. Monitor each potential source of asbestos emissions from any part of the mill facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once each day, during daylight operations, for visible emissions to the outside air during periods of operations. The monitoring must be by visual observation of at least fifteen (15) seconds duration per source of emissions.

- B. Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunction including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis, submit to the Agency, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:
 - (1) Maintenance schedule; and
 - (2) Record keeping plan.
 - C. Maintain records of the results of visible emissions monitoring and air cleaning device inspections using a format approved by the Agency and including the following information:
 - (1) Date and time of each inspection;
 - (2) Presence of visible emissions;
 - (3) Condition of fabric filters, including presence of any tears, holes, and abrasions;
 - (4) Presence of dust deposits on clean side of fabric filters;
 - (5) Brief description of corrective actions taken, including date and time; and
 - (6) Daily hours of operation for each air cleaning device.
 - D. Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Agency, all records required under this section.
 - E. Retain a copy of all monitoring and inspection records for at least two (2) years.
 - F. Submit a copy of visible emission monitoring records to the Agency quarterly. The quarterly reports must be postmarked by the thirtieth (30th) day following the end of the calendar quarter.
 - G. Asbestos-containing waste material produced by any asbestos milling operation must be disposed of according to Section 43-015-19 and 43-015-20.
2. ROADWAYS AND PARKING LOTS. No person may construct or maintain, or allow to be constructed or maintained a roadway with asbestos tailings or asbestos-containing waste material on that roadway, unless (for asbestos tailings):
- A. It is a temporary roadway on an area of asbestos ore deposits (asbestos mine); or
 - B. It is a temporary roadway at an active asbestos mill site and is encapsulated with a resinous or bituminous binder, and the encapsulated road surface is maintained at least

once per calendar year or within 12 months of road construction to prevent dust emissions;
or

- C. It is encapsulated in asphalt concrete meeting the specifications contained in section 401 of Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-85, 1985, or their equivalent.

- 3. MANUFACTURING. No person may cause or allow to be discharged into the atmosphere any visible emissions, except as provided in 43-015-17, from any building or structure in which manufacturing operations utilizing asbestos are conducted, or directly from any such manufacturing operations if they are conducted outside buildings or structures, or from any other fugitive emissions. All asbestos-containing waste material produced by any manufacturing operation must be disposed of according to 43-015-19 and 43-015-20. Visible emissions from boilers or other points not producing emissions directly from the manufacturing operation, and having no possible asbestos material in the exhaust gases, are not a violation of this rule. The presence of uncombined water in the exhaust plume is not a violation of the visible emission requirements.

- A. Applicability. Manufacturing operations subject to these rules are as follows:

- (1) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials;
- (2) The manufacture of fire proofing and insulating materials;
- (3) The manufacture of cement products;
- (4) The manufacture of friction products;
- (5) The manufacture of paper, millboard, and felt;
- (6) The manufacture of floor tile;
- (7) The manufacture of paints, coatings, caulks, adhesives, or sealants;
- (8) The manufacture of plastics and rubber materials;
- (9) The manufacture of chlorine, using asbestos diaphragm technology;
- (10) The manufacture of shotgun shell wads;
- (11) The manufacture of asphaltic concrete; or
- (12) Any other manufacturing operation that results or may result in the release of asbestos material to the ambient air.

- B. The owner or operator of the manufacturing operation must monitor each potential source of asbestos emissions from any part of the manufacturing facility, including air cleaning devices, process equipment, and buildings housing material processing and handling

equipment. Monitoring must be done at least once each day during daylight hours for visible emissions to the outside air during periods of operation and be by visual observation for at least fifteen (15) seconds duration.

- C. The owner or operator of the manufacturing operation must inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags, and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis, submit to the Agency, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:
 - (1) Maintenance schedule; and
 - (2) Record keeping plan.
- D. The owner or operator of a manufacturing operation must maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by the Agency and includes the following information:
 - (1) Date and time of each inspection;
 - (2) Presence of visible emissions;
 - (3) Condition of fabric filters, including presence of any tears, holes, and abrasions;
 - (4) Presence of dust deposits on clean side of fabric filters;
 - (5) Brief description of corrective actions taken, including date and time; and
 - (6) Daily hours of operation for each air cleaning device.
- E. The owner or operator of a manufacturing operation must furnish upon request, and make available at the affected facility during normal business hours for inspection by the Agency, all records required under this section.
- F. The owner or operator of a manufacturing operation must retain a copy of all monitoring and inspection records for at least two (2) years.
- G. The owner or operator of a manufacturing operation must submit quarterly a copy of the visible emission monitoring records to the Agency if visible emissions occurred during the report period. Quarterly reports must be postmarked by the thirtieth (30th) day following the end of the calendar quarter.
- H. Asbestos-containing waste material produced by any asbestos manufacturing operation shall be disposed of according to 43-015-19 and 43-015-20.

4. SOURCES USING AIR CLEANING DEVICES.

- A. New sources covered by this rule must submit the requested information 90 days before initial startup. Existing sources covered by this rule must comply by March 1, 1996. Changes in the information provided to the Agency must be submitted within thirty (30) days after the change.
 - B. Sources covered by 43-015-1 Mills, 43-015-3 Manufacturing, 43-015-17 Fabricating, and 43-015-5 Asbestos to Nonasbestos Conversion Operations, must provide the following information to the Agency:
 - (1) A description of the emission control equipment used for each process; and
 - (2) If a fabric filter device is used to control emissions,
 - (a) the airflow permeability in $\text{m}^3_{\text{air}}/\text{min}/\text{m}^2_{\text{fabric}}$ ($\text{ft}^3_{\text{air}}/\text{min}/\text{ft}^2_{\text{fabric}}$) if the fabric filter device uses a woven fabric, and, if the fabric is synthetic, whether the fill yarn is spun or not spun;
 - (b) if the fabric filter device uses a felted fabric, the density in g/m^2 (oz/yd^2), the minimum thickness in millimeters (inches), and the airflow permeability in $\text{m}^3_{\text{air}}/\text{min}/\text{m}^2_{\text{fabric}}$ ($\text{ft}^3_{\text{air}}/\text{min}/\text{ft}^2_{\text{fabric}}$); and
 - (3) If a HEPA filter is used to control emissions, the certified efficiency.
 - C. For sources covered by this rule and subject to 43-015-19, Friable Asbestos Disposal Requirements, and 43-015-20, Non-friable Asbestos Disposal Requirements:
 - (1) A brief description of each process that generates asbestos containing waste material;
 - (2) The average volume of asbestos containing waste material disposed of, measured in m^3/day (yd^3/day);
 - (3) The emission control methods used in all stages of waste disposal; and
 - (4) The type of disposal site or incineration site used for ultimate disposal, the name of the site operator and the name and location of the disposal site.
 - D. For sources covered by this rule and subject to 43-015-19.J Active Disposal Sites, 43-015-19.M Inactive Disposal Sites, and 43-015-20, Non-friable Asbestos Disposal Requirements:
 - (1) A brief description of the site; and
 - (2) The method or methods used to comply with the standard, or alternative procedures to be used.
5. **ASBESTOS TO NON-ASBESTOS CONVERSION OPERATIONS. (See OAR 340-248-0230)**

6. MAJOR SOURCES. This section applies only to renovation and demolition activities at major sources subject to the federal operating permit program as defined in **OAR 340-200-0020**.
 - A. To determine applicability of the Agency's asbestos regulations, the owner or operator of a renovation or demolition project must thoroughly survey, using an accredited inspector, the affected area for the presence of asbestos, including non-friable asbestos. A copy of that survey report must remain on site during any demolition or renovation activity.
 - B. For demolition projects where no asbestos-containing material is present, written notification must be submitted to the Agency on an approved form. The notification must be submitted by the owner or operator or by the demolition contractor as follows:
 - (1) Submit the notification, as specified in Part C of this Subsection to the Agency at least ten (10) days before beginning any demolition project.
 - (2) Failure to notify the Agency before any changes in the scheduled starting or completion dates or other substantial changes, renders the notification of demolition void.
 - C. The following information must be provided for each notification of demolition:
 - (1) Name, address and telephone number of the person conducting the demolition;
 - (2) Contractor's Oregon demolition license number, if applicable;
 - (3) Certification that no asbestos was found during the pre-demolition asbestos survey and that, if asbestos-containing material is uncovered during demolition, the procedures found in Sections 43-015-7 through 43-015-18 will be followed;
 - (4) Description of the building, structure, facility, installation, vehicle, or vessel to be demolished, including:
 - (a) the age and present and prior use(s) of the facility;
 - (b) address or location of the scheduled demolition project.
 - (5) Major source owner or operator name, address and phone number;
 - (6) Scheduled starting and completion dates of demolition work; and
 - (7) Any other information requested on the Agency form.
7. APPLICABILITY. Unless exempt pursuant to 43-015-8, prior to commencing the renovation or demolition of a facility, the owner or operator of the facility must obtain a survey from an accredited asbestos inspector of the entire facility, or the part of the facility where the demolition or renovation will occur, for the presence of asbestos-containing materials, including the presence of non-friable asbestos-containing material. A copy of the survey report must be kept onsite at the facility during any demolition or renovation activity.

8. ASBESTOS ABATEMENT PROJECTS. Any person who conducts or provides for the conduct of an asbestos abatement project, or any person who is the owner or operator of a facility where an asbestos abatement project is conducted, must comply with the provisions set forth in Title 43 except as provided in this rule.
- A. The asbestos abatement projects described in (1) through (7) below are exempt from certain provisions of Title 43 as listed in this section and OAR Chapter 340, Division 248.
- (1) Asbestos abatement conducted inside a single private residence by the owner is exempt from 43-015-7, if the residence:
 - (a) is not used as a rental property;
 - (b) is not used as a commercial business;
 - (c) is not intended to be demolished.
 - (2) Asbestos abatement conducted inside a single private residence by the owner-occupant is exempt from 43-015-9 through 43-015-12.
 - (3) Asbestos abatement conducted outside of a single private residence by the owner is exempt from 43-015-7 and 9, if the residence:
 - (a) is not used as a rental property;
 - (b) is not used as a commercial property; and
 - (c) is not intended to be demolished.
 - (4) Residential buildings with four or fewer dwelling units that were constructed after January 1, 2004 are exempt from the provisions of 43-015-7.
 - (5) Projects involving the removal of mastics and roofing products that are fully encapsulated with a petroleum-based binder and are not hard, dry, or brittle, and the conditions in (a) and (b) below are met are exempt from 43-015-10 through 43-015-19 and 43-015-20.A, B, H, and I, provided these materials are not made friable.
 - (a) The generation of particulate asbestos material is minimized.
 - (b) Asbestos-containing materials are wetted prior to removal and during subsequent handling, to the extent practicable.
 - (6) Projects involving the removal of less than three square feet or three linear feet of asbestos-containing material are exempt from 43-015-11.R through 43-015-11.U provided that the removal of asbestos is not the primary objective, is part of a needed repair operation, the methods of removal are in compliance with **OAR 437 Division 3, "Construction" Subsection Z and 29 CFR 1926.1101(g)(i) through (iii) (1998)**, and the following conditions are met:

- (a) the generation of particulate asbestos material is minimized;
- (b) no vacuuming or local exhaust ventilation and collection is conducted with equipment having a collection efficiency lower than that of a HEPA filter;
- (c) all asbestos-containing waste materials shall be cleaned up using HEPA filters or wet methods; and
- (d) asbestos-containing materials are wetted prior to removal and during subsequent handling, to the extent practicable.

An asbestos abatement project may not be subdivided into smaller-sized units in order to qualify for this exemption.

- (7) Projects involving the removal of asbestos-containing materials that are sealed from the atmosphere by a rigid casing are exempt from 43-015-9 through 43-015-11, 43-015-20.B through 43-015-20.D, and 43-015-20.G through 43-015-20.I, provided the casing is not broken or otherwise altered such that asbestos fibers could be released during removal, handling and transport to an authorized disposal site.

- B. Open storage or open accumulation of asbestos-containing material or asbestos-containing waste material is prohibited.

(Note: The requirements and jurisdiction of the State of Oregon Department of Insurance and Finance, Accident Prevention Division (Oregon OSHA) and any other state agency are not affected by these rules.)

- 9. NON-FRIABLE ASBESTOS ABATEMENT PROJECTS. Any person who removes non-friable asbestos-containing material not exempted under 43-015-8.A must comply with the following:
 - A. Submit asbestos removal notification and the appropriate fee to the Agency, on an Agency form in accordance with 43-015-10.
 - B. Remove non-friable asbestos-containing materials in a manner that ensures the material remains non-friable.
 - C. A non-friable asbestos abatement project is exempt from the asbestos licensing and certification requirements under 43-015-11.R through 43-015-11.U. This exemption ends whenever the asbestos-containing material becomes friable or has the potential to release asbestos fibers into the environment.
- 10. ASBESTOS ABATEMENT NOTIFICATION REQUIREMENTS. Except as provided for in 43-015-8, written notification of any asbestos abatement project must be provided to the Agency on a form prepared by and available from the Agency, accompanied by the appropriate fee. The notification must be submitted by the facility owner or operator or by the contractor, in accordance with one of the procedures specified in subsections A, B or C below, except as provided in subsections F and G below.

- A. Submit the notifications as specified in subsection D below, and the project notification fee to the Agency at least ten (10) days before beginning any friable asbestos abatement project and at least five (5) days before beginning any non-friable asbestos abatement project.

(1) The project notification fees in effect for 07/01/2023 are:

- (a) eighty dollars (\$80) for each asbestos abatement project less than 40 linear feet or 80 square feet of asbestos-containing material, a residential building used as a residence before **AND** after abatement, or a non-friable asbestos abatement project;
- (b) one hundred and seventy dollars (\$170) for each asbestos abatement project greater than or equal to 40 linear feet or 80 square feet of asbestos-containing material and less than 260 linear feet or 160 square feet;
- (c) six hundred and eighty-two dollars (\$682) for each project greater than or equal to 260 linear feet or 160 square feet, and less than 1,300 linear feet or 800 square feet;
- (d) eight hundred and fifty-five dollars (\$855) for each project greater than or equal to 1,300 linear feet or 800 square feet, but less than 2,600 linear feet or 1,600 square feet;
- (e) one thousand, four hundred and eighty-one dollars (\$1,481) for each project greater than or equal to 2,600 linear feet or 1,600 square feet, and less than 5,000 linear feet or 3,500 square feet;
- (f) one thousand, seven hundred and seven dollars (\$1,707) for each project greater than or equal to 5,000 linear feet or 3,500 square feet, and less than 10,000 linear feet or 6,000 square feet;
- (g) two thousand, seven hundred, and thirty-four dollars (\$2,734) for each project greater than or equal to 10,000 linear feet or 6,000 square feet, and less than 26,000 linear feet or 16,000 square feet;
- (h) four thousand, five hundred, and fifty-eight dollars (\$4,558) for each project greater than or equal to 26,000 linear feet or 16,000 square feet, and less than 260,000 linear feet or 160,000 square feet.
- (i) five thousand, six hundred, and ninety-seven dollars (\$5,697) for each project greater than 260,000 linear feet or 160,000 square feet.

(2) The annual notifications fees are:

- (a) five hundred and ninety-two dollars (\$592) for annual notifications for friable asbestos abatement projects involving removal of less than 40 linear feet or 80 square feet of asbestos-containing material; and

- (b) seven hundred and ninety-eight dollars (\$798) for annual notifications for non-friable asbestos abatement projects performed at schools, colleges, and facilities.
- (3) The fees in 43-015-10.A(1) and (2) will increase by four (4%) percent on July 1 of each year, beginning July 1, 2003.
- (4) Project notification fees must accompany the completed project notification form. Notification has not occurred until the completed notification form and appropriate notification fee are received by the Agency.
- (5) The Agency may waive the ten-day notification requirement in subsection A above in emergencies that directly affect human life, health, and property. This includes:
 - (a) emergencies where there is an imminent threat of loss of life or severe injury; or
 - (b) emergencies where the public is exposed to air-borne asbestos fibers; or
 - (c) emergencies where significant property damage will occur if repairs are not made immediately.
- (6) The Agency may waive the ten-day notification requirement in subsection A above for asbestos abatement projects that were not planned, resulted from unexpected events, and will cause damage to equipment or impose unreasonable financial burden if not performed immediately. This includes the non-routine failure of equipment.
- (7) In either (5) or (6) above persons responsible for such asbestos abatement projects must notify the Agency by telephone before commencing work, or by 9:00 a.m. of the next working day if the work was performed on a weekend or holiday. In any case, notification as specified in sub-section D below and the appropriate fee must be submitted to the Agency within three (3) days of commencing emergency or unexpected event asbestos abatement projects.
- (8) If an asbestos project, equal to or greater than 2600 linear feet or 1600 square feet continues for more than one year from the original start date of the project, a new notification and fee must be submitted annually thereafter until the project is complete.
- (9) Failure to notify the Agency before any changes in the scheduled starting or completion dates or other substantial changes, will render the notification void.
- (10) Residential buildings include: site built homes, modular homes constructed off site, mobile homes, condominiums, and duplexes or other multi unit residential building consisting of four units or less, and will be used as residential dwellings after any asbestos abatement project is completed.

B. Annual notification for small-scale friable asbestos abatement projects may be used only for projects where less than forty (40) linear or eighty (80) square feet of asbestos-containing material is removed. The small-scale friable asbestos projects may be

conducted at multiple facilities by a single licensed asbestos contractor or at a facility that has a centrally controlled asbestos operation and maintenance program where the facility owner uses appropriately trained and certified personnel to remove asbestos. The annual notification may be submitted as follows:

- (1) Establish eligibility for use of this notification procedure with the Agency prior to use.
 - (2) Maintain on file with the Agency a general asbestos abatement plan. The plan must contain the information specified in part D of this subsection to the extent possible.
 - (3) Provide to the Agency a summary report of all asbestos abatement projects conducted in the previous three months, by the 15th day of the month following the end of each calendar quarter. The summary report must include the information specified in part D of this subsection for each project, a description of any significant variations from the general asbestos abatement plan, and a description of asbestos abatement projects anticipated for the next quarter when possible.
 - (4) Provide to the Agency, upon request, a list of asbestos abatement projects that are scheduled or are being conducted at the time of the request.
 - (5) Submit a project notification fee prior to use of this notification procedure.
 - (6) Failure to provide payment for use of this notification procedure will void the general asbestos abatement plan, and each subsequent abatement project will be individually assessed a project notification fee.
- C. Annual non-friable asbestos abatement projects may only be performed at schools, colleges, and facilities where the removal work is done by certified asbestos abatement workers. Submit the notification as follows:
- (1) Establish eligibility for use of this notification procedure with the Agency prior to use.
 - (2) Maintain on file with the Agency a general non-friable asbestos abatement plan. The plan must contain the information specified in part D of this subsection to the extent possible.
 - (3) Provide to the Agency a summary report of all non-friable asbestos abatement projects conducted in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary must include the information specified in part D of this subsection for each project, a description of any significant variations from the general asbestos abatement plan, and a list describing the non-friable asbestos abatement projects anticipated for the next quarter, when possible.
 - (4) Submit project notification and fee prior to use of this notification procedure.

- (5) Failure to provide payment for use of this notification procedure will void the general non-friable asbestos abatement plan, and each subsequent non-friable abatement project will be individually assessed a project notification fee.
- D. The following information must be provided for each notification:
- (1) Name and address of person intending to engage in asbestos abatement;
 - (2) The Oregon asbestos abatement contractor's license number and certification number of the supervisor for the asbestos abatement project or, for non-friable asbestos abatement projects, the name of the supervising person that meets Oregon OSHA's competent person qualifications as required in OAR 437, Division 3 "Construction", Subdivision Z, 1926.1101(b) "Competent person", (2/10/1994);
 - (3) Method of asbestos abatement to be employed;
 - (4) Procedures to be employed to insure compliance with 43-015;
 - (5) Names, addresses and phone numbers of waste transporters;
 - (6) Name and address or location of the waste disposal site where the asbestos-containing waste material will be deposited;
 - (7) Description of asbestos disposal procedure;
 - (8) Description of building, structure, facility, installation, vehicle or vessel to be demolished or renovated, including:
 - (a) the age, present and prior use of the facility; and
 - (b) address or location where the asbestos abatement project is to be accomplished, including building, floor, and room numbers.
 - (9) Facility owner's or operator's name, address and phone number;
 - (10) Scheduled starting and completion dates and times of asbestos abatement work;
 - (11) Description of the asbestos type, approximate asbestos content (percent) and location of the asbestos-containing material;
 - (12) Amount of asbestos to be abated (linear feet, square feet, thickness);
 - (13) For facilities described in 43-015-11.K, provide the name, title and authority of the state or local government official who ordered the demolition, date the order was issued, and the date the demolition is to begin; and
 - (14) Any other information requested on the Agency form.

- E. In addition to any other legal remedy available, the project notification fees specified in this section will be increased by fifty (50) percent when an asbestos abatement project is commenced without filing of a project notification or submittal of a notification fee or when notification of less than ten days is provided under 43-015-10.A(5) and (6).
 - F. The Director may waive part or all of a project notification fee. Requests for waiver of fees must be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship.
11. ASBESTOS ABATEMENT WORK PRACTICES AND PROCEDURES. Except as provided for in 43-015-8, the following procedures must be employed by any person who conducts or provides for the conduct of an asbestos abatement project, including any person who owns or operates a facility where an asbestos abatement project is conducted:
- A. Remove all asbestos-containing materials before beginning any activity that would break up, dislodge, or disturb the materials or preclude access to the materials for subsequent removal. Asbestos-containing materials need not be removed before demolition if:
 - (1) They are on a facility component that is encased in concrete or other similar material and are adequately wetted whenever exposed during demolition; or
 - (2) They were not discovered before demolition and cannot be removed because of unsafe conditions as a result of the demolition.
 - B. Upon discovery of asbestos materials found during demolition, the owner or operator performing the demolition must:
 - (1) Stop demolition work immediately;
 - (2) Notify the Agency immediately of the occurrence;
 - (3) Keep the exposed asbestos-containing materials and any asbestos-contaminated waste material adequately wet at all times until a licensed asbestos abatement contractor begins removal activities; and
 - (4) Have the licensed asbestos abatement contractor remove and dispose of the asbestos-containing waste material.
 - C. Enclose the area of the asbestos-containing materials to be abated, in a negative pressure enclosure prior to abatement unless prior approval has been granted by the Agency.
 - D. Asbestos-containing materials must be adequately wetted when they are being removed. In renovation, maintenance, repair and construction operations, where wetting would unavoidably damage equipment or is incompatible with specialized work practices, or presents a safety hazard, adequate wetting is not required, if the owner or operator:
 - (1) Obtains prior written approval from the Agency for dry removal of asbestos-containing material;

- (2) Keeps a copy of the Agency's written approval available for inspection at the work site;
 - (3) Adequately wraps or encloses any asbestos-containing material during handling to avoid releasing fibers; and
 - (4) Uses a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the asbestos abatement project which is no less efficient than a HEPA filter.
- E. When a facility component covered or coated with asbestos-containing materials is being taken out of the facility as units or in sections:
- (1) Adequately wet any asbestos-containing materials exposed during cutting or disjoining operation; and
 - (2) Carefully lower the units or sections to ground level, not dropping them or throwing them.
 - (3) Asbestos-containing materials do not need to be removed from large facility components such as reactor vessels, large tanks, steam generators, but excluding beams if the following requirements are met:
 - (a) the component is removed, transported, stored, disposed of, or reused without disturbing or damaging the regulated asbestos-containing material;
 - (b) the component is encased in leak-tight wrapping; and
 - (c) the leak-tight wrapping is labeled according to 43-015-19.B(1)(b)(ii) during all loading and unloading operations and during storage.
- F. For friable asbestos-containing materials being removed or stripped:
- (1) Adequately wet the materials to ensure that they remain wet until they are disposed of in accordance with 43-015-19.
 - (2) Carefully lower the materials to the floor, not dropping or throwing them.
 - (3) With prior written approval from the Agency, transport the materials to the ground via dust-tight chutes or containers if they have been removed or stripped above ground level and were not removed as units or in sections.
 - (4) Enclose the area where friable asbestos-containing materials are to be removed with a negative pressure enclosure prior to abatement unless written approval for an alternative is granted by the Agency.
 - (5) A minimum of one viewing window will be installed in all enclosures, including negative pressure enclosures, in accordance with the following:

- (a) Each viewing window must be a minimum of two feet by two feet and be made of a material that will allow a clear view inside the enclosure.
 - (b) For large enclosures, including negative pressure enclosures, install one viewing window for every 5,000 square feet of area when spatially feasible.
- G. The asbestos abatement project area shall be adequately cleaned at the conclusion of the project to assure removal of all asbestos debris.
- H. While at the project site, all asbestos-containing waste shall be secured in a posted area or receptacle.
- I. Ambient air sampling may be required in proximity to any asbestos removal project where work practices prescribed in this section are not being followed, whether or not prior approval to use alternate method has been obtained from the Agency.
- J. Before a facility is demolished by intentional burning, all asbestos containing material must be removed and disposed of in accordance with sections 43-015-11 Work Practices through 43-015-20.
- K. Any person that demolishes a facility under an order of the State of Oregon or a local governmental agency, issued because the facility is structurally unsound and in danger of imminent collapse must comply with the following:
 - (1) Obtain written approval from the Agency for an ordered demolition procedure before that demolition takes place;
 - (2) Send a copy of the order and an asbestos abatement project notification (as described in 43-015-10) to the Agency before commencing demolition work;
 - (3) Keep a copy of the order, Agency's approval, and the notification form at the demolition site during all phases of demolition until final disposal of the project waste at an authorized landfill; and
 - (4) Keep asbestos-containing materials and asbestos contaminated debris adequately wet during demolition and comply with the disposal requirements set forth in 43-015-19 and 43-015-20.
- L. Persons performing asbestos abatement outside full negative pressure containment must obtain written approval from the Agency before using mechanical equipment to remove asbestos-containing material.
- M. None of the operations in subsections A through H of this section may cause any visible emissions. Any local exhaust ventilation and collection system or other vacuuming equipment used during an asbestos abatement project must be equipped with a HEPA filter or other filter of equal or greater collection efficiency.

- N. Open storage or open accumulation of friable asbestos-containing material or asbestos-containing waste material is prohibited.
 - O. Any materials within a container which displays an asbestos hazard warning will be subject to all applicable rules and regulations pertaining to the storage and disposal of asbestos-containing waste materials.
 - P. No person shall conduct an asbestos abatement project unless they possess a current asbestos abatement Contractors license or worker's certification, issued by the Department under OAR 340-248-040 or OAR 340-248-0120 and OAR 340-248-0130, respectively, unless exempted by 43-015-8 and/or 43-015-9.
 - Q. Any person acting as the supervisor for any asbestos abatement project must be certified by the Department as a supervisor under the provisions of OAR 340-248-0130.
 - R. Any person engaged in or working on any asbestos abatement project must be certified by the Department as a worker or a supervisor under the provisions of OAR 340-248-0130.
 - S. A certified supervisor is required to be present on each asbestos abatement project other than a small-scale short-duration activity.
 - T. An owner or operator of a facility shall not allow any persons other than those employees of the facility owner or operator who are appropriately certified or a licensed asbestos abatement contractor to perform an asbestos abatement project in or on that facility unless exempted by 43-015-8 or 43-015-9.
 - U. The Director may approve, on a case-by-case basis, requests to use an alternative to the requirements contained in this rule. The contractor or facility owner or operator must submit a written description of the proposed alternative and demonstrates, to the Director's satisfaction, that the proposed alternative provides public health protection equivalent to the protection that would be provided by the specific requirement, or that such level of protection cannot be obtained for the asbestos abatement project.
12. FINAL AIR CLEARANCE SAMPLING REQUIREMENTS apply to projects involving more than 160 square feet or 260 linear feet of asbestos-containing material. Before containment around such an area is removed, the person performing the abatement must have at least one air sample collected that documents that the air inside the containment has no more than 0.01 fibers per cubic centimeter of air. The air sample(s) collected may not exceed 0.01 fibers per cubic centimeter of air. The Agency may grant a waiver to this section or exceptions to the following requirements upon receiving an advanced written request.
- A. The air clearance samples must be performed and analyzed by a party who is National Institute of Occupational Safety and Health (NIOSH) 582, or equivalent, certified and financially independent from the person(s) conducting the asbestos abatement project.
 - B. Before final air clearance sampling is performed the following must be completed:
 - (1) All visible asbestos-containing material and asbestos-containing waste material must be removed according to the requirements of this section;

- (2) The air and surfaces within the containment must be sprayed with an encapsulant;
 - (3) Air sampling may commence when the encapsulant has settled sufficiently so that the filter of the sample is not clogged by airborne encapsulant; and
 - (4) Air filtration units must remain on during the air monitoring period.
 - C. Air clearance sampling inside containment areas must be aggressive and comply with the following procedures:
 - (1) Immediately before starting the sampling pumps, direct exhaust from a minimum one horse power forced air blower against all walls, ceilings, floors, ledges, and other surfaces in the containment.
 - (2) Then place stationary fans in locations that will not interfere with air monitoring equipment, and direct the fans toward the ceiling. Use one fan per 10,000 cubic feet of room space.
 - (3) Start sampling pumps and sample an adequate volume of air to detect concentrations of 0.01 fibers per cubic centimeter according to the U.S. National Institute of Occupational Safety and Health, (NIOSH) 7400 method.
 - (4) When sampling is completed turn off the pump and then the fan(s).
 - (5) As an alternative to meeting the requirements of (1) through (4) of this sub-section, air clearance sample analysis may be performed according to Transmission Electron Microscopy Analytical Methods prescribed by 40 CFR 763, Appendix A to Subpart E (Interim Transmission Electron Microscopy Analytical Methods).
 - D. The persons(s) performing asbestos abatement projects requiring air clearance sampling must submit to the Agency clearance results within thirty (30) days after the monitoring procedures were performed.
- 13. RELATED WORK PRACTICES AND ENGINEERING CONTROLS employed for asbestos abatement projects by contractors and/or workers who are not otherwise subject to the requirements of the Oregon Department of Insurance and Finance, Oregon Occupational Safety and Health Division, shall comply with the subsections of OAR Chapter 437, Division 3, "Construction" (29 CFR 1926.1101(g)) which limit the release of asbestos-containing materials or exposure of other persons. As used in this subsection the term "employer" shall mean the operator of the asbestos abatement project, and the term "employee" shall mean any other person.
- 14. SPRAYING OPERATIONS. The following apply to spraying operations:
 - A. No person may cause or allow to be discharged into the atmosphere any visible emissions from any spray-on application of materials containing more than one percent (1%) asbestos on a dry weight basis used to insulate or fireproof equipment or machinery, except as provided in subsection 15 of this section. Spray-on materials used to insulate or

fireproof buildings, structures, pipes, and conduits must contain less than one percent (1%) asbestos on a dry weight basis. If any city or area of local jurisdiction has ordinances or regulations for spray application materials more stringent than those in this section, the provisions of such ordinances or regulations apply.

- B. Any person intending to spray asbestos materials to insulate, fireproof, cover or coat buildings, structures, pipes, conduits, equipment, or machinery must notify the Agency in writing twenty (20) days before the spraying operation begins. The notification must contain the following information:
 - (1) Name and address of person intending to conduct the spraying operation;
 - (2) Address or location of the spraying operation; and
 - (3) Name and address of the owner of the facility being sprayed.
 - C. The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of parts A and B of this subsection.
15. OPTIONS FOR AIR CLEANING. Rather than meet the no visible emissions requirements of 43-015-1 and 3, owners and operators may elect to use methods specified in section 16, below.
16. AIR CLEANING. All persons electing to use air cleaning methods rather than comply with the no visible emission requirements must meet all provisions of this section:
- A. Fabric filter collection devices must be used, except as provided in subsections B and C of this section. Such devices must be operated at a pressure drop of no more than four (4) inches (10.16 cm) water gauge as measured across the filter fabric. The air flow permeability, as determined by ASTM Method D737-75, must not exceed 30 ft.³_{air}/min./ft.²_{fabric} (9 m³_{air}/min./m²_{fabric}) for woven fabrics or 35 ft.³_{air}/min./ft.²_{fabric} (11 m³_{air}/min./m²_{fabric}) for felted fabrics with the exception that airflow permeability of 40 ft.³_{air}/min./ft.²_{fabric} (12 m³_{air}/min./m²_{fabric}) for woven and 45 ft.³_{air}/min./ft.²_{fabric} (14 m³_{air}/min./m²_{fabric}) for felted fabrics must be allowed for filtering air emissions from asbestos ore dryers. Each square yard of felted fabric must weigh at least 14 ounces (475 grams/square meter) and be at least one-sixteenth 1/16 inch (1.6 mm) thick throughout. Any synthetic fabrics used must not contain fill yarn other than that which is spun.
 - B. The Agency may authorize the use of wet collectors designed to operate with a unit contacting energy of at least forty (40) inches (10.16 cm) of water gauge pressure when the use of fabric filters creates a fire or explosion hazard, as determined by the local fire department.
 - C. The Agency may authorize the use of filtering equipment other than that described in parts A and B of this sub-section if such filtering equipment is satisfactorily demonstrated and certified to provide filtering efficiency of at least 99.97 percent for particles 0.3 microns or greater.

- D. All air cleaning devices authorized by this section must be properly installed, operated, and maintained. Devices to bypass the air cleaning equipment may be used only during upset and emergency conditions, and then only for such time as is necessary to shut down the operation generating the particulate asbestos-containing material.
 - E. All persons operating any existing source using air cleaning devices shall, within ninety (90) days of the effective date of these rules, provide the following information to the Agency:
 - (1) A description of the emission control equipment used for each process.
 - (2) If a fabric is utilized, the following information shall be reported:
 - (a) the pressure drop across the fabric filter in inches water gauge and the airflow permeability in $\text{ft}^3_{\text{air}}/\text{min.}/\text{ft}^2_{\text{fabric}}$ ($\text{m}^3_{\text{air}}/\text{min.}/\text{m}^2_{\text{fabric}}$);
 - (b) for woven fabrics, indicate whether the fill yarn is spun or not spun; and
 - (c) for felted fabrics, the density in ounces/yard³ (gms/m³) and the minimum thickness in inches (centimeters).
 - (3) If a wet collector is used the unit contact energy shall be reported in terms of inches of pressure, water gauge.
 - F. Fabric filter collection systems installed after January 10, 1989, must be easily inspected for faulty bags.
17. FABRICATION. No person using commercial asbestos may cause to be discharged into the atmosphere any visible emissions including fugitive emissions except as provided in 43-015-16, from any fabricating operations including, but not limited to, the following:
- A. The fabrication of cement building products;
 - B. The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles; and
 - C. The fabrication of cement or silicate board for ventilation hoods, ovens, electrical panels, laboratory furniture; bulkheads, partitions and ceilings for marine construction; and flow control devices for the molten metal industry.
 - D. Unless receiving prior approval from the Agency, the owner or operator subject to this section must:
 - (1) Monitor each potential source of asbestos emissions from any part of the fabricating facility, including air cleaning devices and process equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operations. The monitoring must be by visual observation of at least fifteen (15) seconds duration per source of emissions.

- (2) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this subsection, submit to the Agency, revise as necessary, and implement a written maintenance plan to include, at a minimum, the following:
 - (a) maintenance schedule; and
 - (b) record keeping plan.
 - (3) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by the Agency that includes the following information:
 - (a) date and time of each inspection;
 - (b) presence or absence of visible emissions;
 - (c) condition of fabric filters, including presence of any tears, holes, and abrasions;
 - (d) presence of dust deposits on clean side of fabric filters;
 - (e) brief description of corrective actions taken, including date and time; and
 - (f) daily hours of operation for each air cleaning device.
 - (4) Furnish upon request and make available at the affected facility during normal working hours for inspection by the Agency, all records required under this subsection.
 - (5) Retain a copy of all monitoring and inspection records for at least two (2) years.
 - (6) Submit a copy of the visible emission monitoring records to the Agency quarterly. The quarterly report must be postmarked by the thirtieth (30th) day following the end of the calendar quarter.
18. INSULATION. No owner or operator of a facility may install or reinstall on a facility component any insulating materials that contain commercial asbestos if the materials are either molded and friable or wet-applied and friable after drying. The provisions of this subsection do not apply to insulating materials regulated under section 14 of this rule which are spray applied.
19. FRIABLE ASBESTOS DISPOSAL REQUIREMENTS Work practices and procedures for packaging, storing, transporting, and disposing of friable asbestos containing waste material: The owner or operator of a facility or a person conducting an activity covered under the provisions of 43-015-1 through 19, or any other source of friable asbestos-containing waste material must meet the following standards:

- A. There may be no visible emissions to the atmosphere during the collection, processing, packaging, transporting, or deposition of any asbestos-containing waste material that is generated by a facility.
- B. Persons disposing of asbestos-containing waste material must notify the landfill operator of the type and volume of the asbestos-containing waste material.
 - (1) All asbestos-containing waste materials must be adequately wetted to ensure that they remain wet until delivered to an authorized landfill, and either:
 - (a) processed into non-friable pellets or other shapes; or
 - (b) packaged in leak-tight containers such as two plastic bags with a minimum thickness of 6 mil., or fiber or metal drum. Containers must be labeled as follows:
 - (i) the name of the asbestos waste generator and the location where the asbestos waste was generated; and
 - (ii) a warning label that states:

DANGER
Contains Asbestos Fibers
Avoid Creating Dust
Cancer and Lung Disease Hazard
Avoid Breathing Airborne
Asbestos Fibers

Alternatively, warning labels specified by 29 CFR
1926.1101(k)(7)(8/19/94) may be used.

- (2) The waste transporter shall immediately notify the landfill operator upon arrival of the asbestos-containing waste material at the disposal site. Off-loading of asbestos-containing waste shall be done under the direction and supervision of the landfill operator.
 - (3) Off-loading of asbestos-containing waste material shall occur at the immediate location where the asbestos-containing waste is to be buried.
 - (4) Off-loading of asbestos-containing waste material shall be accomplished in a manner that prevents the leak-tight transfer containers from rupturing and prevents visible emissions to the air.
- C. If the asbestos-containing materials are not removed from a facility before demolition as described in 43-015-11.A, adequately wet the asbestos-containing waste material at all times after demolition and keep it wet during handling and loading for transport to a disposal site. Such asbestos-containing waste materials must be transported in lined and covered containers for bulk disposal.

- D. The interim storage of asbestos-containing waste material must protect the asbestos-containing waste from dispersal into the environment and provide physical security from tampering by unauthorized persons. The interim storage of asbestos-containing waste material is the sole responsibility of the contractor, owner or operator performing the asbestos abatement project.
- E. All asbestos-containing waste material must be deposited as soon as possible by the waste generator at:
 - (1) An asbestos-containing waste disposal site authorized by the Department and operated in accordance with the provisions of this rule; or
 - (2) A Department-approved site that converts asbestos-containing waste material into non-asbestos (asbestos free) material according to the provisions of OAR 340-248-0230 Asbestos to Nonasbestos Conversion Operations.
- F. For each asbestos-containing waste shipment, the following information must be recorded on an Agency form:
 - (1) The name, address, and telephone number of the waste generator;
 - (2) The number and type of asbestos-containing waste material containers and volume in cubic yards;
 - (3) A certification that the contents of this consignment are carefully and accurately described by the proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highways according to applicable regulations;
 - (4) The date transported;
 - (5) The name, address, and telephone number of the transporter(s);
 - (6) The name and telephone number of the disposal site operator;
 - (7) The name and address or location of the waste disposal site;
 - (8) The quantity of the asbestos-containing waste material in cubic yards;
 - (9) The presence of improperly enclosed or uncovered asbestos-containing waste, or any asbestos-containing waste material not sealed in leak-tight containers; and
 - (10) The date asbestos-containing waste is received at the disposal site.
- G. For the transportation of asbestos-containing waste material, the waste generator must:
 - (1) Maintain the waste shipment records for at least two years and ensure that all the information requested on the Agency form regarding waste generation and transportation has been supplied;

- (2) Limit access into loading and unloading area to authorized personnel; and
- (3) Mark vehicles, while loading and unloading asbestos-containing waste, with signs (20 in. X 14 in.) that state:

DANGER
ASBESTOS DUST HAZARD
CANCER AND LUNG DISEASE HAZARD
Authorized Personnel Only

Alternatively, language that conforms to the requirements of 29 CFR 1926.1101(k)(6)(8/19/94) may be used.

H. The waste transporter must:

- (1) Immediately notify the landfill operator upon arrival of the asbestos-containing waste at the disposal site; and
- (2) Provide a copy of the waste shipment record to the disposal site owners or operators when the asbestos-containing waste material is delivered to the disposal site.

I. After initial transport of asbestos-containing waste material, the waste generator must:

- (1) Receive a copy of the completed waste shipment record within thirty-five (35) days, or determine the status of the asbestos-containing waste shipment. A completed waste shipment record must include the signature of the owner or operator of the designated disposal site.
- (2) Receive a copy of the completed waste shipment record within forty-five (45) days, or submit to the Agency a written report including:
 - (a) a copy of the waste shipment record when a confirmation of delivery was not received; and
 - (b) a cover letter signed by the waste generator explaining the efforts taken to locate the asbestos-containing waste shipment and the results of those efforts.
- (3) Keep waste shipment records, including a copy signed by the owner or operator of the designated waste disposal site, for at least three (3) years. Make all disposal records available, upon request, to the Agency. For an asbestos abatement project conducted by a contractor licensed under OAR 340-248-120, the records must be retained by the licensed contractor. For any other asbestos abatement project, the records must be retained by the facility owner.

J. Each owner or operator of an active asbestos-containing waste disposal site must, for all asbestos-containing waste material received, meet the following standards:

- (1) Ensure that off-loading of asbestos-containing waste material is done under the direction and supervision of the landfill operator or authorized agent, and that it is accomplished in a manner that prevents the leak-tight transfer containers from rupturing and prevents the release of visible emissions to the air.
 - (2) Ensure that off-loading of asbestos-containing waste material occurs at the immediate location where the asbestos-containing waste will be buried, and restrict public access to the off-loading area until asbestos-containing waste is covered in accordance with (8), below.
 - (3) Maintain waste shipment records for at least two years and ensure that all information requested on the Agency form regarding asbestos-containing waste disposal has been supplied.
 - (4) Immediately notify the Agency by telephone, followed by a written report to the Agency the following working day, of the presence of improperly enclosed or uncovered asbestos-containing waste. Submit a copy of the waste shipment record along with the report.
 - (5) As soon as possible and no more than thirty (30) days after receiving the asbestos-containing waste, send a copy of the signed waste shipment record to the waste generator.
 - (6) Upon discovering a discrepancy between the quantity of asbestos-containing waste designated on the waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the waste generator. Report in writing to the Agency any discrepancy between the quantity of asbestos-containing waste designated on the waste shipment records and the quantity actually received that cannot be reconciled between the waste generator and the waste disposal site within fifteen (15) days after receiving the waste. Describe the discrepancy and attempts to reconcile it, and submit a copy of the waste shipment record along with the report. Include the Agency-assigned asbestos abatement project number in the discrepancy report.
 - (7) Select the asbestos-containing waste burial site in an area of minimal work activity that is not subject to future excavation.
 - (8) Cover all asbestos-containing waste material deposited at the disposal site with at least twelve (12) inches of soil or six (6) inches of soil plus twelve (12) inches of other waste before running compacting equipment over it, but not later than the end of the operating day.
- K. Maintain, until site closure, record of the location, depth and area, and quantity in cubic yards of asbestos-containing waste material within the disposal site on a map or diagram of the disposal area.
- L. Excavation or disturbance of asbestos-containing waste material that has been deposited at a waste disposal site and is covered is considered an asbestos abatement project. The

notification for any such project must be submitted as specified in 43-015-10 except as follows:

- (1) Submit the project notification and project notification fee to the Agency at least forty-five (45) days before beginning any excavation or disturbance of asbestos-containing waste disposal site.
 - (2) State the reason for disturbing the asbestos-containing waste.
 - (3) Explain procedures for controlling emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. The Agency may require changes in the proposed emission control procedures.
 - (4) State the location of any temporary storage site and the final disposal site.
- M. Upon closure of an active asbestos-containing waste disposal site, each owner or operator must:
- (1) Comply with all the provisions for inactive asbestos-containing waste disposal sites;
 - (2) Submit to the Agency a copy of records of asbestos-containing waste disposal locations and quantities; and
 - (3) Make available during normal business hours and furnish upon request, all records required under this section for inspection by the Agency.
- N. The owner or operator of an inactive asbestos-containing waste disposal site shall meet the following standards:
- (1) Maintain a cover of at least two (2) feet of soil or one (1) foot of soil plus one (1) foot of other waste.
 - (2) Grow and maintain a cover of vegetation on the area to prevent erosion of the non-asbestos-containing cover of soil or other waste materials; or in desert areas where vegetation would be difficult to maintain, a layer of at least three (3) inches of well graded, non-asbestos crushed rock may be placed and maintained on top of the final cover instead of vegetation.
 - (3) For inactive waste disposal sites for asbestos-containing tailings, a resinous or petroleum-based dust suppression agent that effectively binds dust to control surface air emissions may be used and maintained to achieve the requirements of (1) and (2) of this sub-section, provided prior written approval of the Agency is obtained.
 - (4) Excavation or disturbance at any inactive asbestos-containing waste disposal site is an asbestos abatement project. The notification for any such project must be submitted as specified in 43-015-10, except as follows:

- (a) Submit the project notification and project notification fee to the Agency at least forty-five (45) days before beginning any excavation or disturbance of an inactive asbestos-containing waste disposal site.
 - (b) State the reason for disturbing the asbestos-containing waste.
 - (c) Explain the procedures to be used to control emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. The Agency may require changes in the proposed emission control procedures to be used.
 - (d) State the location of any temporary storage site and the final disposal site.
 - (5) Within sixty (60) days of a site's becoming inactive, request in writing that the Commission issue an environmental hazard notice for the site. This environmental hazard notice will notify in perpetuity any potential purchaser of the property that:
 - (a) the land has been used for the disposal of asbestos-containing waste material;
 - (b) the survey plot and record of the location and quantity of asbestos-containing waste disposed of within the disposal site, required for active asbestos disposal sites, have been filed with the Agency; and
 - (c) the site is subject to the provisions of Title 43.
 - O. Rather than meet these requirements, an owner or operator may use alternative packaging, storage, transport, or disposal methods after receiving approval by the Agency in writing.
20. **NON-FRIABLE ASBESTOS DISPOSAL REQUIREMENTS.** Work practices and procedures of non-friable asbestos-containing waste material: The owner or operator of a facility or an activity covered under the provisions of Title 43 and any other source of non-friable asbestos-containing material must meet the following standards:
- A. There may be no visible emissions to the atmosphere while collecting, processing, packaging, transporting, or disposing of any non-friable asbestos-containing waste material that is generated by such source.
 - B. All non-friable asbestos-containing waste materials must be adequately wetted to ensure that they remain wet until deposited at an authorized landfill, and either:
 - (1) Processed into non-friable pellets or other shapes; or
 - (2) Packaged in leak-tight containers that allow the non-friable asbestos-containing waste material to remain adequately wet until deposited at an authorized landfill. Such containers must be marked as follows:
 - (a) the name of the asbestos-containing waste materials generator and the location where the waste was generated; and

(b) a warning statement:

DANGER
ASBESTOS-CONTAINING MATERIAL

- C. Non-friable asbestos-containing roofing materials that are fully encapsulated in a petroleum-based binder and meet the conditions in 43-015-8.A(5) are exempt from 43-015-20.B.
- D. The interim storage of non-friable asbestos-containing waste material must protect the waste from tampering by unauthorized persons. The interim storage of non-friable asbestos-containing waste material is the sole responsibility of the contractor or the owner or operator performing the non-friable asbestos abatement project.
- E. All non-friable asbestos-containing waste material must be deposited as soon as possible by the asbestos waste generator at:
 - (1) A waste disposal site authorized by the Department and operated in accordance with this rule; or
 - (2) A Department-approved site that converts asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of OAR 340-248-0230, Asbestos to Nonasbestos Conversion Operations.
- F. Persons disposing of non-friable asbestos-containing waste material must notify the landfill operator of the type and volume of the waste material and obtain the approval of the landfill operator before bringing the waste to the disposal site.
- G. For each non-friable waste shipment, the waste generator must provide the generator information contained in 43-015-19.F.
- H. For the transportation of non-friable asbestos-containing waste material, the waste generator must follow the provisions 43-015-19.G.
- I. After initial transport of non-friable asbestos-containing waste material, the asbestos waste generator must follow the provisions of 43-015-19.H.
- J. Each owner or operator of an active non-friable asbestos-containing waste disposal site must meet the provisions of 43-015-19.I.
- K. The owner or operator of an inactive non-friable asbestos-containing waste disposal site must meet the provisions of 43-015-19.J.
- L. Rather than meet the requirements of this rule, an owner or operator may use alternative packaging, storage, transport, or disposal methods after receiving written approval from the Agency.

(**Section 43-020 Emission Standard for Beryllium** deleted from Title 43 on 06/11/02 and adopted by reference into new Title 37, Subsection 37-150-3.C)

(**Section 43-025 Emission Standard for Beryllium Rocket Motor Firing** deleted from Title 43 on 06/11/02 and adopted by reference into new Title 37, Subsection 37-150-3.D)

(**Section 43-030 Emission Standard for Mercury** deleted from Title 43 on 06/11/02 and adopted by reference into new Title 37, Subsection 37-150-3.E)

(**Section 43-035 Work Practice Standard for Radon 222 Emissions from Underground Uranium Mines** deleted from Title 43 on 06/11/02 and adopted by reference into new Title 37, Subsection 37-150-3.B)

(Survey Requirements revised throughout **Title 43** on 7/26/2010)

(Section 43-015-8.A(4) Residential exemption date revised on 6/8/2017)

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 44

HAZARDOUS AIR POLLUTANT PROGRAM

General Provisions for Stationary Sources

Section 44-010 Policy and Purpose

The Lane Regional Air Protection Agency (LRAPA) finds that certain air contaminants for which there are no ambient air quality standards may cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness or to irreversible ecological damage, and are therefore considered to be hazardous air pollutants. It shall be the policy of LRAPA that no person may cause, allow, or permit emissions into the ambient air of any hazardous substance in such quantity, concentration, or duration determined by LRAPA to be injurious to public health or the environment. The purpose of this title is to establish emissions limitations on sources of these air contaminants. In order to reduce the release of these hazardous air pollutants and protect public health and the environment, it is the intent of LRAPA to adopt by rule within this title the source category-specific requirements that are promulgated by the EPA. Furthermore, it is hereby declared the policy of LRAPA that the standards contained in this title are considered minimum standards, and as technology advances, protection of public health and the environment warrants, more stringent standards may be adopted and applied.

Section 44-015 Definitions

The definitions in title 12, OAR 340-218-0030, and this section apply to this title. If the same term is defined in this section and title 12 or 340-218-0030, the definition in this section applies to this title.

- (1) "Affected source" is as defined in 40 C.F.R. 63.2.
- (2) "Annual throughput" means the amount of gasoline transferred into a gasoline dispensing facility during 12 consecutive months.
- (3) "Area Source" means any stationary source which has the potential to emit hazardous air pollutants but is not a major source of hazardous air pollutants.
- (4) "C.F.R." means the July 1, 2017 Code of Federal Regulations unless otherwise identified.
- (5) "Construct a major Source" means to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP; or to fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination

of HAP, unless the process or production unit satisfies criteria (a) through (f) of this definition:

- (a) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of 40 C.F.R. part 63, Subpart B will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;
 - (b) LRAPA has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 C.F.R. part 51 or 52, toxics-best available control technology (T-BACT) or MACT based on State air toxic rules for the category of pollutants which includes those HAP to be emitted by the process or production unit; or LRAPA determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or State air toxic rule MACT determination).
 - (c) LRAPA determines that the percent control efficiency for emission of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;
 - (d) LRAPA has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (a), (b), and (c) apply and concerning the continued adequacy of any prior LAER, BACT, T-BACT, or State air toxic rule MACT determination;
 - (e) If any commenter has asserted that a prior LAER, BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, LRAPA has determined that the level of control required by that prior determination remains adequate; and
 - (f) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by LRAPA are predicated will be construed by LRAPA as applicable requirements under section 504(a) of the FCAA and either have been incorporated into any existing Title V permit for the affected facility or will be incorporated into such permit upon issuance.
- (6) "Emissions Limitation" and "Emissions Standard" mean a requirement adopted by the DEQ or LRAPA, or proposed or promulgated by the Administrator of the EPA, which limits the quantity, rate, or concentration of emissions of 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.

- (7) "Equipment leaks" means leaks from pumps, compressors, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, agitators, accumulator vessels, and instrumentation systems in hazardous air pollutant service.
- (8) "Existing Source" means any source, the construction of which commenced prior to proposal of an applicable standard under sections 112 or 129 of the FCAA.
- (9) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including, but not limited to, ships.
- (10) "Hazardous Air Pollutant" (HAP) means an air pollutant listed by the EPA under section 112(b) of the FCAA or determined by the Board to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.
- (11) "Major Source" means 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 considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The EPA may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.
- (12) "Maximum Achievable Control Technology (MACT)" means an emission standard applicable to major sources of hazardous air pollutants that requires the maximum degree of reduction in emissions deemed achievable for either new or existing sources.
- (13) "New Source" means a stationary source, the construction of which is commenced after proposal of a federal MACT or January 3, 1993 of this title, whichever is earlier.
- (14) "Potential to Emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the EPA. This section does not alter or affect the use of this section for any other purposes under the FCAA, or the term "capacity factor" as used in Title IV of the FCAA or the regulations promulgated under it. Secondary emissions shall not be considered in determining the potential to emit of a source.
- (15) "Reconstruct a Major Source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever: the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under 40 C.F.R. part 63 subpart B.

- (16) "Regulated Air Pollutant" as used in this title means:
 - (a) Any pollutant listed under OAR 340-200-0400 or section 44-160; or
 - (b) Any pollutant that is subject to a standard promulgated under Section 129 of the FCAA.
- (17) "Section 112(n)" means that subsection of the FCAA that includes requirements for the EPA to conduct studies on the hazards to public health prior to developing emissions standards for specified categories of hazardous air pollutant emission sources.
- (18) "Section 112(r)" means that subsection of the FCAA that includes requirements for the EPA promulgate regulations for the prevention, detection and correction of accidental releases.
- (19) "Solid Waste Incineration Unit" as used in this title shall have the same meaning as given in Section 129(g) of the FCAA.
- (20) "Stationary Source":
 - (a) As used in title 44 means any building, structure, facility, or installation which emits or may emit any regulated air pollutant;

Section 44-020 List of Hazardous Air Pollutants

For purposes of this title LRAPA adopts by reference the pollutants, including groups of substances and mixtures, listed in **Section 112(b) of FCAA**, as Hazardous Air Pollutants (Table 1 of section 44-020).

Section 44-030 Amending the List of Hazardous Air Pollutants

- (1) Any person may file a petition with LRAPA to amend the HAP List. The petition must include at least the following information:
 - (a) Name and chemical abstract service number of the substance;
 - (b) Quantity of the substance used and released in Lane County;
 - (c) Sources or source categories emitting the substance;
 - (d) Potential adverse effects of the substance on public health and the environment;
 - (e) Potential exposure pathways; and
 - (f) Uncertainties in the data provided.

- (2) LRAPA shall present this information, or other information that LRAPA may develop, to the Board, consistent with subsection (1), for presentation to the Board which will consider it along with the best available scientific information developed by the EPA, the Oregon Health Division, other states, other scientific organizations, or by any person.
- (3) The Board shall amend the HAP list if:
 - (a) It finds there is a scientifically defensible need to add a substance not on the EPA list to protect the public health or environment;
 - (b) A chemical is added to the list by the EPA;
 - (c) A substance is deleted from the list by the EPA and the Board finds that the substance can be deleted without causing harm to public health or the environment;
or
 - (d) A substance has previously been added to the list by the Board but not by the EPA, and the Board finds that the substance can be deleted without causing harm to public health or the environment.

COMPLIANCE EXTENSIONS FOR EARLY REDUCTIONS

Section 44-040 Applicability

The requirements of 40 C.F.R. part 63 subpart D apply to an owner or operator of an existing source who wishes to obtain a compliance extension and an alternative emission limit from a standard issued under **Section 112(d) of the FCAA**. Any owner or operator of a facility who elects to comply with a compliance extension and alternative emission limit issued under this section must complete a permit application as prescribed in 40 C.F.R. 63.77.

Section 44-130 Emissions Limitation for New and Reconstructed Major Sources

- (1) Federal MACT. Any person who proposes to construct a major source of HAP after an applicable emissions standard has been proposed by the EPA pursuant to **Section 112(d)**, **Section 112(n)**, or **Section 129 of the FCAA** shall comply with the requirements and emission standard for new sources when promulgated by EPA.
- (2) State MACT. Any person who proposes to construct or reconstruct a major source of hazardous air pollutants before MACT requirements applicable to that source have been proposed by the EPA and after the effective date of the program shall comply with new and reconstructed source MACT requirements of **40 C.F.R. part 63, subpart B**.
- (3) Compliance schedule. The owner or operator of a new or reconstructed source must on and after the date of start-up, be in compliance with all applicable requirements specified in the Federal or State MACT.

EMISSION STANDARDS

Section 44-140 Emissions Limitation for Existing Sources

- (1) Federal MACT. Existing major and area sources shall comply with the applicable emissions standards for existing sources promulgated by the EPA pursuant to **Section 112(d)**, **section 112(n)**, or **Section 129 of the FCAA** and adopted by section within this title.
- (2) State MACT. If the EPA fails to meet its schedule for promulgating a MACT standard for a source category, LRAPA must approve HAP emissions limitations for existing major sources within that category on a case-by-case basis, in accordance with the requirements of **40 C.F.R. part 63, subpart B**.
 - (a) The owner or operator of each existing major source within that category will file permit applications in accordance with OAR 340-218-0040 and 40 C.F.R. part 63, subpart B.
 - (b) If, after a permit has been issued, the EPA promulgates a MACT standard applicable to a source, which is more stringent than the one established pursuant to this section, LRAPA shall revise the permit upon the next renewal to reflect the standard promulgated by the EPA. The source shall be given a reasonable time to comply, but no longer than 8 (eight) years after the standard is promulgated.
 - (c) LRAPA shall not establish a case-by-case MACT:
 - (A) For existing solid waste incineration units where an emissions standard will be established for these units by the EPA pursuant to **Section 111 of the FCAA**. These sources are subject to applicable emissions standards under title 46.
 - (B) For existing major HAP sources where an emissions standard or alternative control strategy will be established by the EPA pursuant to **Section 112(n) of the FCAA**.
- (3) Compliance schedule
 - (a) The owner or operator of the source shall comply with the emission limitation:
 - (A) Within the time frame established in the applicable Federal MACT standard, but in no case later than 3 (three) years from the date of federal promulgation of the applicable MACT requirements; or
 - (B) Within the time frame established by LRAPA where a State- determined MACT has been established or a case-by-case determination has been made.
 - (b) The owner or operator of the source may apply for, and LRAPA may grant, a compliance extension of up to 1 (one) year if such additional period is necessary for the installation of controls.

- (c) Notwithstanding the requirements of this section, no existing source that has installed Best Available Control Technology or been required to meet Lowest Achievable Emission Rate prior to the promulgation of a federal MACT applicable to that emissions unit shall be required to comply with such MACT standard until 5 (five) years after the date on which such installation or reduction has been achieved, as determined by LRAPA.

Section 44-150, Emission Standards:

Federal Regulations Adopted by Reference

- (1) Except as provided in subsection (2) and (3), **40 C.F.R. Part 61, Subparts A, C through F, J, L, N through P, V, Y, BB, and FF and 40 C.F.R. Part 63, Subparts A, F through J, L, through O, Q through U, W through Y, AA through EE, GG through YY, CCC through EEE, GGG through JJJ, LLL through RRR, TTT through VVV, XXX, AAAA, CCCC through KKKK, MMMM through YYYY, AAAAA through NNNN, PPPP through UUUU, WWWW, YYYYY, ZZZZ, BBBB, DDDDD through FFFFF, LLLLLL through TTTTTT, VVVVVV through EEEEEEE, and HHHHHH** are adopted by reference and incorporated herein, and **40 C.F.R. Part 63, Subparts ZZZZ and JJJJJ** are by this reference adopted and incorporated herein only for sources required to have a Title V or ACDP permit.
- (2) Where "Administrator" or "EPA" appears in **40 C.F.R. part 61 or 63**, "LRAPA" shall be substituted, except in any section of **40 C.F.R. part 61 or 63** for which a federal rule or delegation specifically indicates that authority will not be delegated.
- (3) 40 C.F.R. Part 63 Subpart M - Dry Cleaning Facilities using Perchloroethylene: The exemptions in 40 C.F.R. 63.320(d) and (e) do not apply.
- (4) **40 C.F.R. Part 61** Subparts adopted by this section are titled as follows:
- (a) Subpart A-General Provisions;
 - (b) Subpart C-Beryllium;
 - (c) Subpart D-Beryllium Rocket Motor Firing;
 - (d) Subpart E-Mercury;
 - (e) Subpart F-Vinyl Chloride;
 - (f) Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene;
 - (g) Subpart L-Benzene Emissions from Coke By-Product Recovery Plants;
 - (h) Subpart N-Inorganic Arsenic Emissions from Glass Manufacturing Plants;
 - (i) Subpart O-Inorganic Arsenic Emissions from Primary Copper Smelters;

- (j) Subpart P-Inorganic Arsenic Emissions from Arsenic Trioxide and Metal Arsenic Facilities;
 - (k) Subpart V-Equipment Leaks (Fugitive Emission Sources);
 - (l) Subpart Y-Benzene Emissions from Benzene Storage Vessels;
 - (m) Subpart BB – Benzene Emissions from Benzene Transfer Stations; and
 - (n) Subpart FF-Benzene Waste Operations.
- (5) **40 C.F.R. Part 63** Subparts adopted by this section are titled as follows:
- (a) Subpart A-General Provisions;
 - (b) Subpart F-SOCMI;
 - (c) Subpart G-SOCMI-Process Vents, Storage Vessels, Transfer Operations, and Wastewater;
 - (d) Subpart H-SOCMI-Equipment Leaks;
 - (e) Subpart I-Certain Processes Subject to the Negotiated Regulation for Equipment Leaks;
 - (f) Subpart J - Polyvinyl Chloride and Copolymers Production (federally vacated)
 - (g) Subpart L-Coke Oven Batteries;
 - (h) Subpart M-Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;
 - (i) Subpart N- Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;
 - (j) Subpart O-Ethylene Oxide Emissions Standards for Sterilization Facilities;
 - (k) Subpart Q-Industrial Process Cooling Towers;
 - (l) Subpart R-Gasoline Distribution (Bulk Gasoline Terminals and Pipeline Breakout Stations);
 - (m) Subpart S-Pulp and Paper Industry;
 - (n) Subpart T-Halogenated Solvent Cleaning;
 - (o) Subpart U-Group I Polymers and Resins;
 - (p) Subpart W-Epoxy Resins and Non-Nylon Polyamides Production;

- (q) Subpart X-Secondary Lead Smelting;
- (r) Subpart Y-Marine Tank Vessel Loading Operations;
- (s) Subpart AA-Phosphoric Acid Manufacturing Plants;
- (t) Subpart BB-Phosphate Fertilizer Production Plants;
- (u) Subpart CC-Petroleum Refineries;
- (v) Subpart DD-Off-Site Waste and Recovery Operations;
- (w) Subpart EE-Magnetic Tape Manufacturing Operations;
- (x) Subpart GG-Aerospace Manufacturing and Rework Facilities;
- (y) Subpart HH-Oil and Natural Gas Production Facilities;
- (z) Subpart II-Shipbuilding and Ship Repair (Surface Coating);
- (aa) Subpart JJ-Wood Furniture Manufacturing Operations;
- (bb) Subpart KK-Printing and Publishing Industry;
- (cc) Subpart LL-Primary Aluminum Reduction Plants;
- (dd) Subpart MM-Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semi-Chemical Pulp Mills;
- (ee) Subpart NN – Area Sources: Wool Fiberglass Manufacturing
- (ff) Subpart OO-Tanks-Level 1;
- (gg) Subpart PP-Containers;
- (hh) Subpart QQ-Surface Impoundments;
- (ii) Subpart RR-Individual Drain Systems;
- (jj) Subpart SS-Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process;
- (kk) Subpart TT-Equipment Leaks-Control Level 1;
- (ll) Subpart UU-Equipment Leaks-Control Level 2;
- (mm) Subpart VV-Oil-Water Separators and Organic-Water Separators;
- (nn) Subpart WW-Storage Vessels (Tanks)- Control Level 2;

- (oo) Subpart XX - Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations;
- (pp) Subpart YY-Generic Maximum Achievable Control Technology Standards;
- (qq) Subpart CCC-Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants;
- (rr) Subpart DDD-Mineral Wool Production;
- (ss) Subpart EEE-Hazardous Waste Combustors;
- (tt) Subpart GGG-Pharmaceuticals Production;
- (uu) Subpart HHH-Natural Gas Transmission and Storage Facilities;
- (vv) Subpart III-Flexible Polyurethane Foam Production;
- (ww) Subpart JJJ-Group IV Polymers and Resins;
- (xx) Subpart LLL-Portland Cement Manufacturing Facilities;
- (yy) Subpart MMM-Pesticide Active Ingredient Production;
- (zz) Subpart NNN-Wool Fiberglass Manufacturing;
- (aaa) Subpart OOO-Manufacture of Amino/Phenolic Resins;
- (bbb) Subpart PPP-Polyether Polyols Production;
- (ccc) Subpart QQQ - Primary Copper Smelting;
- (ddd) Subpart RRR-Secondary Aluminum Production
- (eee) Subpart TTT-Primary Lead Smelting;
- (fff) Subpart UUU - Petroleum Refineries -- Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units;
- (ggg) Subpart VVV-Publicly Owned Treatment Works;
- (hhh) Subpart XXX-Ferro Alloys, Ferromanganese, and Silicomanganese Production;
- (iii) Subpart AAAA - Municipal Solid Waste Landfills;
- (jjj) Subpart CCCC-Manufacturing of Nutritional Yeast;
- (kkk) Subpart DDDD - Plywood and Composite Wood Products;

- (III) Subpart EEEE - Organic Liquids Distribution (non-gasoline);
- (mmm) Subpart FFFF - Miscellaneous Organic Chemical Manufacturing;
- (nnn) Subpart GGGG-Solvent Extraction for Vegetable Oil Production;
- (ooo) Subpart HHHH - Wet Formed Fiberglass Mat Production;
- (ppp) Subpart IIII - Surface Coating of Automobiles and Light-Duty Trucks;
- (qqq) Subpart JJJJ - Paper and Other Web Coating;
- (rrr) Subpart KKKK - Surface Coating of Metal Cans;
- (sss) Subpart MMMM - Surface Coating of Miscellaneous Metal Parts and Products;
- (ttt) Subpart NNNN - Surface Coating of Large Appliances;
- (uuu) Subpart OOOO - Printing, Coating, and Dyeing of Fabrics and Other Textiles;
- (vvv) Subpart PPPP - Surface Coating of Plastic Parts and Products;
- (www) Subpart QQQQ - Surface Coating of Wood Building Products;
- (xxx) Subpart RRRR - Surface Coating of Metal Furniture;
- (yyy) Subpart SSSS - Surface Coating of Metal Coil;
- (zzz) Subpart TTTT - Leather Finishing Operations;
- (aaaa) Subpart UUUU - Cellulose Production Manufacturing;
- (bbbb) Subpart VVVV - Boat Manufacturing;
- (cccc) Subpart WWWW - Reinforced Plastics Composites Production;
- (dddd) Subpart XXXX - Rubber Tire Manufacturing;
- (eeee) Subpart YYYY - Stationary Combustion Turbines;
- (ffff) Subpart ZZZZ - Reciprocating Internal Combustion Engines (adopted only for sources required to have a Title V or ACDP permit);
- (gggg) Subpart AAAAA - Lime Manufacturing;
- (hhhh) Subpart BBBB - Semiconductor Manufacturing;
- (iii) Subpart CCCCC - Coke Ovens: Pushing, Quenching & Battery Stacks;

- (jjjj) Subpart DDDDD - Industrial, Commercial, and Institutional Boilers and Process Heaters
- (kkkk) Subpart EEEEE - Iron and Steel Foundries;
- (llll) Subpart FFFFF - Integrated Iron and Steel Manufacturing Facilities;
- (mmmm) Subpart GGGGG - Site Remediation;
- (nnnn) Subpart HHHHH – Misc. Coating Manufacturing;
- (oooo) Subpart IIIII - Mercury Cell Chlor-Alkali Plants;
- (pppp) Subpart JJJJJ - Brick and Structural Clay Products Manufacturing;
- (qqqq) Subpart KKKKK - Clay Ceramics Manufacturing;
- (rrrr) Subpart LLLLL - Asphalt Processing & Asphalt Roofing Manufacturing;
- (ssss) Subpart MMMMM - Flexible Polyurethane Foam Fabrication Operations;
- (tttt) Subpart NNNNN - Hydrochloric Acid Production;
- (uuuu) Subpart PPPPP - Engine Tests Cells/Stands;
- (vvvv) Subpart QQQQQ - Friction Materials Manufacturing Facilities;
- (www) Subpart RRRRR - Taconite Iron Ore Processing;
- (xxxx) Subpart SSSSS - Refractory Products Manufacturing;
- (yyyy) Subpart TTTTT - Primary Magnesium Refining;
- (zzzz) Subpart UUUUU – Coal- and Oil-Fired Electric Utility Steam Generating Units
- (aaaaa) Subpart WWWW - Area Sources: Hospital Ethylene Oxide Sterilization;
- (bbbbb) Subpart YYYYY - Area Sources: Electric Arc Furnace Steelmaking Facilities;
- (ccccc) Subpart ZZZZZ - Area Sources: Iron and Steel Foundries;
- (dddd) Subpart BBBBBB- Area Sources: Gasoline Distribution Bulk Plant and Pipeline Facilities;
- (eeee) Subpart DDDDD- Area Sources: Polyvinyl Chloride and Copolymers Production;
- (ffff) Subpart EEEEE - Area Sources: Primary Copper Smelting;

- (ggggg) Subpart FFFFFFF - Area Sources: Secondary Copper Smelting;
- (hhhhh) Subpart GGGGGG - Area Sources: Primary Nonferrous Metals - Zinc, Cadmium, and Beryllium;
- (iiii) Subpart HHHHHH -- Area Sources: Paint Stripping and Miscellaneous Surface Coating Operations;
- (jjjj) Subpart JJJJJ - Area Sources: Industrial, Commercial, and Institutional Boilers (adopted only for sources required to have a Title V or ACDP permit);
- (kkkkk) Subpart LLLLLL - Area Sources: Acrylic and Modacrylic Fibers Production;
- (llll) Subpart MMMMMM - Area Sources: Carbon Black Production;
- (mmmmm) Subpart NNNNNN - Area Sources: Chemical Manufacturing: Chromium Compounds;
- (nnnnn) Subpart OOOOOO - Area Sources: Flexible Polyurethane Foam Production;
- (ooooo) Subpart PPPPPP - Area Sources: Lead Acid Battery Manufacturing;
- (ppppp) Subpart QQQQQQ - Area Sources: Wood Preserving;
- (qqqqq) Subpart RRRRRR - Area Sources: Clay Ceramics Manufacturing;
- (rrrrr) Subpart SSSSSS - Area Sources: Glass Manufacturing;
- (sssss) Subpart TTTTTT - Area Sources: Secondary Nonferrous Metals Processing;
- (ttttt) Subpart VVVVVV – Area Sources: Chemical Manufacturing;
- (uuuuu) Subpart WWWWWW - Area Sources: Plating and Polishing Operations;
- (vvvvv) Subpart XXXXXX - Area Sources: Nine Metal Fabrication and Finishing Source Categories;
- (wwwww) Subpart YYYYYY - Area Sources: Ferroalloys Production Facilities;
- (xxxxx) Subpart ZZZZZZ - Area Sources - Aluminum, Copper, and Other Nonferrous Foundries;
- (yyyyy) Subpart AAAAAA - Area Sources: Asphalt Processing and Asphalt Roof Manufacturing;
- (zzzzz) Subpart BBBBBB - Area Sources: Chemical Preparations Industry;

- (aaaaaa) Subpart CCCCCCC - Area Sources: Paints and Allied Products Manufacturing;
- (bbbbbb) Subpart DDDDDDD - Area Sources: Prepared Feeds Manufacturing;
- (cccccc) Subpart EEEEEEE - Area Sources: Gold Mine Ore Processing and Production;
- (dddddd) Subpart HHHHHHH - Polyvinyl Chloride and Copolymers Production.

(Section 37-150 Original Adoption 06/11/02, includes updated provisions of 43-020 through 43-035 which were deleted from title 43 by 06/11/02 rulemaking; Amended 1/12/2010, Amended 04/25/2011, Amended 11/12/2015, Amended 1/11/18)

EMISSION STANDARDS FOR GASOLINE DISPENSING FACILITIES

Section 44-170 Purpose

The sections 44-180 through 44-290 establish emission limitations and management practices for hazardous air pollutants (HAP) and volatile organic compounds (VOCs) emitted from the loading of gasoline storage tanks and dispensing of fuel at gasoline dispensing facilities (GDFs). Sections 44-180 through 44-290 also establish requirements to demonstrate compliance with the emission limitations and management practices.

Section 44-180 Definitions

The definitions in title 12 and this section apply to sections 44-170 through 44-290. If the same term is defined in this section and title 12, the definition in this section applies.

- (1) "Annual throughput" means the amount of gasoline transferred into a gasoline dispensing facility during 12 consecutive months.
- (2) "Aviation Gasoline" means a type of gasoline suitable for use as a fuel in an aviation gas spark-ignition internal combustion engine.
- (3) "Dual Point Vapor Balance System" means a type of vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.
- (4) "Gasoline" means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals (4.0 psi) or greater, which is used as a fuel for internal combustion engines.
- (5) "Gasoline Cargo Tank" means a delivery tank truck or railcar which is loading or unloading gasoline, or which has loaded or unloaded gasoline on the immediately previous load.
- (6) "Gasoline Dispensing Facility" (GDF) means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline fueled engines and equipment.
- (7) "Monthly Throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at each GDF during a month. Monthly throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the current day, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the previous 364 days, and then dividing that sum by 12.

- (8) "Motor Vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.
- (9) "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 of this title or section 7521 of this title [Note: for the context of the terms "section" and "title" as used in this definition, please refer to the definition of "nonroad engine" in 40 C.F.R. Part 63 Subpart CCCCCC].
- (10) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, and that is not a motor vehicle or a vehicle used solely for competition.
- (11) "Submerged Filling" as used in this title, means the filling of a gasoline storage tank through a submerged fill pipe whose discharge is no more than the applicable distance specified in section 44-230 from the bottom of the tank. Bottom filling of gasoline storage tanks is included in this definition.
- (12) "Topping off" means, in the absence of equipment malfunction, continuing to fill a gasoline tank after the nozzle has clicked off.
- (13) "Vapor Balance System" means a combination of pipes and hoses that create a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank such that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.
- (14) "Vapor Tight" means equipment that allows no loss of vapors. Compliance with vapor-tight requirements can be determined by monitoring to ensure that the concentration at a potential leak source is not equal to or greater than 100 percent of the Lower Explosive Limit when measured with a combustible gas detector, calibrated with propane, at a distance of 1 inch from the source.
- (15) "Vapor-tight gasoline cargo tank" means a gasoline cargo tank which has demonstrated within the 12 preceding months that it meets the annual certification test requirements in 40 C.F.R. 63.11092(f).

Section 44-190 Affected Sources

- (1) The affected source to which the emission standards apply is each GDF. The affected source includes each gasoline cargo tank during the unloading of gasoline to a GDF and also includes each storage tank.
- (2) Gasoline storage tanks with a capacity of less than 250 gallons must comply with the work practices in subparagraph 44-230(1)(a) through 44-230(1)(e), but are not required to comply with the submerged fill requirements in section 44-230 and vapor balance requirements in section 44-240.
- (3) The owner or operator of a GDF that has any gasoline storage tanks with a capacity of 250 gallons or more must comply with the work practices requirements and the submerged fill requirements in section 44-230.

- (4) The owner or operator of a GDF whose total volume of gasoline that is loaded into all gasoline storage tanks greater than 250 gallon capacity must comply with the vapor balance requirements in section 44-240 if either:
 - (a) the annual throughput is 480,000 gallons or more in any 12 consecutive months; or
 - (b) the monthly throughput is 100,000 gallons or more, as calculated on a rolling 30 day basis.
- (5) Each GDF must, upon request by LRAPA, demonstrate that their annual and average monthly gasoline throughput is below any applicable thresholds.
- (6) The owner or operator of a GDF must comply with the requirements of 44-240(4) for any gasoline storage tank equipped vapor balance system.
- (7) The owner or operator of a GDF that installs a new tank with a capacity of 10,000 gallons or more after the effective date of this section shall be equipped with a vapor balance system that meets the requirements in section 44-240.
- (8) Monthly throughput is the total volume of gasoline loaded into, or dispensed from, all the gasoline storage tanks located at a single affected GDF. If an area source has two or more GDFs at separate locations within the area source, each GDF is treated as a separate affected source.
- (9) If the affected source's throughput ever exceeds an applicable throughput threshold, the affected source will remain subject to the requirements for sources above the threshold, even if the affected source throughput later falls below the applicable throughput threshold.
- (10) The dispensing of gasoline from a fixed gasoline storage tank at a GDF into a portable gasoline tank for the on-site delivery and subsequent dispensing of the gasoline into the fuel tank of a motor vehicle or other gasoline-fueled engine or equipment used within the area source is only subject to subsection 44-230(1).
- (11) For any affected source subject to the provisions of 44-170 through 44-290 and another federal rule, the owner or operator may elect to comply only with the more stringent provisions of the applicable rules. The owner or operator of an affected source must consider all provisions of the rules, including monitoring, recordkeeping, and reporting. The owner or operator of an affected source must identify the affected source and provisions with which the owner or operator of an affected source will comply in the Notification of Compliance Status required under 44-260. The owner or operator of an affected source also must demonstrate in the Notification of Compliance Status that each provision with which the owner or operator of an affected source will comply is at least as stringent as the otherwise applicable requirements in 44-170 through 44-290. The owner or operator of an affected source is responsible for making accurate determinations concerning the more stringent provisions, and noncompliance with this rule is not excused if it is later determined that your determination was in error, and, as a result, the owner or operator of an affected source is violating 44-170 through 44-290. Compliance with this rule is the owner's or operator's responsibility and the Notification of

Compliance Status does not alter or affect that responsibility.

Section 44-200 Exceptions

- (1) *Agricultural Operations.* The emission standards in sections 44-210 through 44-290 do not apply to GDF used **exclusively** for agricultural operations as defined in ORS 468A.020. Agricultural operations are however required to comply with the applicable requirements in 40 C.F.R. part 63 subpart CCCCCC – National Hazardous Air Pollutant Emission Standards (NESHAP) for Gasoline Dispensing Facilities.
- (2) *Aviation Gasoline.* The provisions of this section do not apply to the loading of aviation gasoline in storage tanks at airports, and aviation gasoline is not included in paragraphs 44-190(4)(a) and 44-190(4)(b).
- (3) The owner or operator of an affected source, as defined in section 44-190, is not required to obtain a Title V Operating Permit, as a result of being subject to sections 44-210 through 44-290. However, the owner or operator must still apply for and obtain an LRAPA Title V Operating Permit if meeting one or more of the applicability criteria found in OAR 340-218-0020.

Section 44-210 Affected Equipment or Processes

- (1) The emission sources to which this section applies are gasoline storage tanks and associated equipment components in vapor or liquid gasoline service at new, reconstructed, or existing GDF that meet the criteria specified in section 44-190. Pressure/Vacuum vents on gasoline storage tanks and the equipment necessary to unload product from cargo tanks into the storage tanks at GDF are covered emission sources. The equipment used for the refueling of motor vehicles is not covered by this section with the exception of topping off.
- (2) *New GDF.* For purposes of this section, a GDF is a new GDF if the owner or operator commenced construction of the GDF after November 9, 2006 and meets the applicability criteria in section 44-190 upon startup of the GDF.
- (3) *Reconstructed GDF.* A GDF is a reconstructed GDF if meeting the criteria for reconstruction as defined in 40 C.F.R. 63.2.
- (4) *Existing GDF.* A GDF is an existing GDF if it is not new or reconstructed.

Section 44-220 Compliance Dates

- (1) For a new or reconstructed affected source, the owner or operator must comply with the standards in sections 44-230 and 44-240, as applicable, no later than January 10, 2008 or upon startup, whichever is later, except as follows:
 - (a) The owner or operator of a new or reconstructed GDF must comply with 44-230(1)(b) and (c) no later than July 1, 2009 or upon startup, whichever is later.

- (b) For tanks located at a GDF with average monthly throughput of less than 10,000 gallons of gasoline, the owner or operator must comply with the standards in 44-230(3) no later than Dec. 13, 2009.
- (2) The owner or operator of an existing GDF must comply with paragraphs 44-230(1)(a) through 44-230(1)(e) no later than the effective date of this section or upon startup, whichever is later.
- (3) For an existing affected source, the owner or operator must comply with the standards in section 44-230 and 44-240, as applicable, by no later than January 10, 2011.
- (4) The owner or operator of an existing affected source that becomes subject to the control requirements in this section because of an increase in the monthly throughput, as specified in section 44-190, must comply with the applicable standards in this section no later than January 10, 2011 or within 2 years after the affected source becomes subject to the additional control requirements in this section, whichever is later.
- (5) The initial compliance demonstration test required under 44-250(2)(a) and (b) must be conducted as specified in paragraphs (5)(a) and (b).
 - (a) For a new or reconstructed affected source, the owner or operator must conduct the initial compliance test upon installation of the complete vapor balance system.
 - (b) For an existing affected source, the owner or operator must conduct the initial compliance test as specified in subparagraph (5)(b)(A) or (B).
 - (A) For vapor balance systems installed on or before Dec. 15, 2009 at a GDF whose average monthly throughput is 100,000 gallons of gasoline or more, the owner or operator must test no later than 180 days after the applicable compliance date specified in subsection (2) or (3).
 - (B) For vapor balance systems installed after Dec. 15, 2009, the owner or operator must test upon installation of a complete vapor balance system or a new gasoline storage tank.
 - (C) For a GDF whose average monthly throughput is less than or equal to 100,000 gallons of gasoline, the owner or operator is only required to test upon installation of a complete vapor balance system or a new gasoline storage tank.
- (6) If the GDF is subject to the control requirements in 44-178 through 44-290 only because it loads gasoline into fuel tanks other than those in motor vehicles, as defined in 44-180, the owner or operator of the GDF must comply with the standards in 44-178 through 44-290 as specified in paragraphs (6)(a) and (b).
 - (a) If the GDF is an existing facility, the owner or operator of the GDF must comply by Jan. 24, 2014.
 - (b) If the GDF is a new or reconstructed facility, the owner or operator of the GDF must comply by the dates specified in subparagraphs (5)(b)(A) and (B).

- (A) If startup of the GDF is after Dec. 15, 2009, but before January 24, 2011, the owner or operator of the GDF must comply no later than Jan. 24, 2011.
- (B) If startup of the GDF is after Jan. 24, 2011, the owner or operator of the GDF must comply upon startup of the GDF.

Section 44-225 General Duties to Minimize Emissions

Each owner or operator of an affected source must comply with the requirements of subsections (1) and (2).

- (1) The owner or operator of an affected source must, at all times, operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to LRAPA and the EPA Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.
- (2) The owner or operator of an affected source must keep applicable records and submit reports as specified in 44-270(4) and 44-280(2).

Section 44-230 Work Practice and Submerged Fill Requirements

- (1) The owner or operator of a GDF must take reasonable precautions to prevent gasoline vapor releases to the atmosphere. Reasonable precautions include, but are not limited to, the following:
 - (a) Minimize gasoline spills;
 - (b) Do not top off or overfill vehicle tanks. If a person can confirm that a vehicle tank is not full after the nozzle clicks off, such as by checking the vehicle's fuel tank gauge, the person may continue to dispense fuel using best judgment and caution to prevent a spill;
 - (c) Post a sign at the GDF instructing a person filling up a motor vehicle to not top off vehicle tanks;
 - (d) Clean up spills as expeditiously as practicable;
 - (e) Cover all gasoline storage tank fill-pipes with a gasketed seal and all gasoline containers when not in use;
 - (f) Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators.
 - (g) Ensure that cargo tanks unloading at the GDF comply with paragraphs (1)(a), (1)(d) and (1)(e).

- (2) Any cargo tank unloading at a GDF equipped with a functional vapor balance system must connect to the vapor balance system whenever gasoline is being loaded.
- (3) The owner or operator of cargo tank or GDF must only load gasoline into storage tanks at the facility by utilizing submerged filling as specified in paragraph (3)(a), (3)(b) or (3)(c). The applicable distances in paragraphs (3)(a) and (3)(b) must be measured from the point in the opening of the submerged fill pipe that is the greatest distance from the bottom of the storage tank.
 - (a) Submerged fill pipes installed on or before November 9, 2006, must extend to no less than 12 inches from the bottom of the storage tank.
 - (b) Submerged fill pipes installed after November 9, 2006, must extend to no less than 6 inches from the bottom of the storage tank.
 - (c) Submerged fill pipes not meeting the specifications of subsection (3)(a) or (3)(b) are allowed if the owner or operator of a GDF can demonstrate that the liquid level in the tank is always above the entire opening of the fill pipe. Documentation providing such demonstration must be made available for inspection by LRAPA and the EPA Administrator during the course of a site visit.
- (4) The GDF owner or operator must submit the applicable notifications as required in section 44-260.
- (5) The GDF owner or operator must have records available within 24 hours of a request by the LRAPA or the EPA Administrator to document gasoline throughput.
- (6) The GDF owner or operator must comply with the requirements of this section by the applicable dates specified in section 44-220.
- (7) Portable gasoline containers that meet the requirements of 40 C.F.R. part 59 subpart F are considered acceptable for compliance with paragraph (1)(e).

Section 44-240 Vapor Balance Requirements

- (1) Except as provided in subsection (2), the owner or operator of a GDF must meet the requirements in either (1)(a) or (1)(b) for all affected gasoline storage tanks.
 - (a) Each management practice in Table 4 of section 44-240 that applies to the GDF.
 - (b) If, prior to January 10, 2008, the owner or operator operates a vapor balance system on all affected tanks at the GDF that meets either requirement listed in subparagraphs (1)(b)(A) or (1)(b)(B), the owner or operator of a GDF will be deemed in compliance with this subsection.
 - (A) Achieves emissions reduction of at least 90 percent.

- (B) Operates using management practices at least as stringent as those in Table 4 of section 44-240.
- (2) Gasoline storage tanks equipped with floating roofs or the equivalent are not required to comply with the control requirements in subsection (1).
 - (3) Cargo tanks unloading at a GDF must comply with the work practice requirements of subsection 44-230(1) and management practices in Table 5 of section 44-240.
 - (4) The owner or operator of a GDF subject to subsection (1) or having a gasoline storage tank equipped with a vapor balance system, must comply with the following requirements on and after the applicable compliance date in section 44-220:
 - (a) When loading a gasoline storage tank equipped with a vapor balance system, connect and ensure the proper operation of the vapor balance system whenever gasoline is being loaded.
 - (b) Maintain all equipment associated with the vapor balance system to be vapor tight and in good working order.
 - (c) Have the vapor balance equipment inspected on at least an annual basis to discover potential or actual equipment failures.
 - (d) Replace, repair or modify any worn or ineffective component or design element within 24 hours of discovery to ensure the vapor-tight integrity and efficiency of the vapor balance system. If repair parts must be ordered, either a written or verbal order for those parts must be initiated within 2 working days of detecting such a leak. Such repair parts must be installed within 5 working days after receipt.
 - (5) The owner or operator of a GDF subject to subsection (1) must also comply with the following requirements:
 - (a) The applicable testing requirements in section 44-250.
 - (b) The applicable notification requirements in section 44-260.
 - (c) The applicable recordkeeping and reporting requirements in sections 44-270 and 44-280.
 - (d) The owner or operator must have records available within 24 hours of a request by the LRAPA or the EPA Administrator to document gasoline throughput.

Section 44-250 Testing and Monitoring Requirements

- (1) For all testing required by this section, submit notification to LRAPA at least ten (10) days prior to testing.
- (2) If required to install a vapor balance system subject to the requirements of section 44-240, the owner or operator must comply with the testing requirements in paragraphs 44-

250(2)(a) and 44-250(2)(b) at the time of installation of a vapor balance system or a new gasoline storage tank. Further, each owner or operator of a GDF with monthly throughput of 100,000 gallons of gasoline or more must also test every 3 years after installation.

- (a) The owner or operator must demonstrate compliance with the leak rate and cracking pressure requirements, specified in item 1(g) of Table 4 of 44-240, for pressure/vacuum vent valves installed on gasoline storage tanks using test method identified in subparagraphs (a)(A) or (a)(B):
 - (A) PV (pressure/vacuum test valve) Vent Cap Testing in accordance with CARB TP-201.1E,—Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, adopted October 8, 2003 (incorporated by reference, see 40 C.F.R. 63.14).
 - (B) Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 C.F.R. 63.7(f).
- (b) The owner or operator must demonstrate compliance with the static pressure performance requirement, specified in item 1(h) of Table 4 of 44-240, for the vapor balance system by conducting a static pressure test on the gasoline storage tanks using test methods identified in subparagraph (b)(A) or (b)(B):
 - (A) Pressure Decay Testing in accordance with CARB TP-201.3,—Determination of 2 inches of WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities.
 - (B) Use alternative test methods and procedures in accordance with the alternative test method requirements in 40 C.F.R. 63.7(f).
 - (C) Bay Area Air Quality Management District Source Test Procedure ST-30 — Static Pressure Integrity Test — Underground Storage Tanks, adopted Nov. 30, 1983, and amended Dec. 21, 1994 (incorporated by reference, see 40 C.F.R. 63.14).
- (3) Each owner or operator of a GDF, choosing, under the provisions of 40 C.F.R. 63.6(g), to use a vapor balance system other than that described in Table 4 of 44-240, must demonstrate to the EPA the equivalency of their vapor balance system to that described in Table 4 of 44-240 using the procedures specified in paragraphs (3)(a) through (c).
 - (a) The owner or operator must demonstrate initial compliance by conducting an initial performance test on the vapor balance system to demonstrate that the vapor balance system achieves 95 percent reduction in accordance with CARB TP-201.1 Vapor Recovery Test Procedure,—Volumetric Efficiency for Phase I Vapor Recovery Systems, incorporated by reference, see 40 C.F.R. 63.14.
 - (b) The owner or operator must, during the initial performance test required in paragraph (3)(a), determine and document alternative acceptable values for the leak rate and cracking pressure requirements specified in item 1(g) of Table 4 of 44-240

and for the static pressure performance requirement in item 1(h) of Table 4 of 44-240.

- (c) The owner or operator must also comply with the testing requirements specified in subsection (2).
- (4) Conduct of performance tests. Performance tests must be conducted under such conditions as LRAPA or the EPA Administrator specifies to the owner or operator of a GDF based on representative performance, i.e., performance based on normal operating conditions, of the affected source. Upon request by LRAPA or the EPA Administrator, the owner or operator of a GDF must make available such records as may be necessary to determine the conditions of performance tests.
- (5) Owners and operators of gasoline cargo tanks subject to the provisions of Table 4 of 44-240 must conduct annual certification testing according to the vapor tightness testing requirements found in 40 C.F.R. 63.11092(f).

Section 44-260 Notifications

- (1) Each owner or operator of a GDF subject to the submerged fill requirements in subsection 44-230(3) or the vapor balance requirements in section 44-240 must comply with subsections (2) through (6).
- (2) The owner or operator of a GDF must submit an Initial Notification that the owner or operator is subject to the GDF NESHAP by May 9, 2008, or at the time the owner or operator becomes subject to the submerged fill requirements in subsection 44-230(2) or the vapor balance requirements in section 44-240, unless the owner or operator meets the requirements in subsection 44-260(4). The Initial Notification must contain the information specified in subsections (2)(A) through (C) of this section. The notification must be submitted to the EPA's Region 10 Office and LRAPA as specified in 40 C.F.R. 63.13.
 - (a) The name and address of the owner and the operator.
 - (b) The physical address of the GDF.
 - (c) The volume of gasoline loaded into all storage tanks or on the volume of gasoline dispensed from all storage tanks during the previous twelve months.
 - (d) A statement that the notification is being submitted in response to the GDF NESHAP and identifying the requirements in subsections 44-230(1) through (3) and section 44-240 that apply to the owner or operator of a GDF.
- (3) The owner or operator of a GDF must submit a Notification of Compliance Status to the EPA's Region 10 Office and LRAPA as specified in 40 C.F.R. 63.13, by the compliance date specified in section 44-220 unless the owner or operator meets the requirements in subsection (4). The Notification of Compliance Status must be signed by a responsible official who must certify its accuracy and must indicate whether the source has complied with the requirements of sections 44-170 through 44-290. If the facility is in compliance with the requirements of sections 44-170 through 44-290 at the time the Initial Notification

required in subsection (2) is due, the Notification of Compliance Status may be submitted in lieu of the Initial Notification provided it contains the information required in subsection (2).

- (4) If, prior to January 10, 2008 the owner or operator satisfies the requirements in (4)(a) or (4)(b), the owner or operator is not required to submit an Initial Notification or a Notification of Compliance Status specified in subsections (2) and 44-260(3).
 - (a) The owner or operator is not subject to the vapor requirements in section 44-240, and is operating in compliance with an enforceable federal, state or local rule or permit that requires submerged fill as specified in subsection 44-230(2).
 - (b) The owner or operator is subject to the vapor requirements in Section 44-240, and meets the requirements in paragraphs (b)(A) and (b)(B).
 - (A) The owner or operator operates a vapor balance system at the GDF that meets the requirements of either sub-subparagraphs (4)(b)(A)(i) or (ii):
 - (i) Achieves emissions reduction of at least 90 percent.
 - (ii) Operates using management practices at least as stringent as those in Table 4.
 - (B) The owner or operator is operating in compliance with an enforceable federal, state, or local rule or permit that requires submerged fill as specified in subsection 44-230(2), and requires the operation of a vapor balance system as specified in subsection 44-260(4)(b)(A).
- (5) The owner or operator must submit a Notification of Performance Test as specified in 40 C.F.R. 63.9(e), prior to initiating testing required by subsections 44-250(2) and 44-250(3) as applicable.
- (6) The owner or operator must submit additional notifications specified in 40 C.F.R. 63.9, as applicable.

Section 44-270 Recordkeeping Requirements

- (1) Each owner or operator must keep the following records:
 - (a) Records of all tests performed in accordance with subsections 44-250(2) and 44-250(3).
 - (b) Records related to the operation and maintenance of vapor balance equipment required in section 44-240. Any vapor balance component defect must be logged and tracked by the GDF owner or operator using forms provided by LRAPA or a reasonable facsimile.
 - (c) Records of total monthly and annual throughput in gallons as defined.
 - (d) Records of permanent changes made at the GDF and to vapor balance equipment which may affect emissions.

- (2) Records required under section (1) must be kept for a period of 5 years and must be available within 24 hours of a request by LRAPA and the EPA Administrator.
- (3) Each owner or operator of a gasoline cargo tank subject to the management practices in Table 5 of section 44-240 must keep records documenting vapor tightness testing for a period of 5 years. Documentation must include each of the items specified in 40 C.F.R.63.11094(b)(2)(i) through (viii). Records of vapor tightness testing must be retained as specified in either subsection (3)(a) or (b).
 - (a) The owner or operator of a gasoline cargo tank must keep all vapor tightness testing records with the cargo tank.
 - (b) As an alternative to keeping all records with the cargo tank, the owner or operator of a gasoline cargo tank may comply with the requirements of paragraphs (3)(a)(A) and (B).
 - (A) The owner or operator of a gasoline cargo tank may keep records of only the most recent vapor tightness test with the cargo tank and keep records for the previous 4 years at their office or another central location.
 - (B) Vapor tightness testing records that are kept at a location other than with the cargo tank must be instantly available (e.g., via e-mail or facsimile) to LRAPA and the EPA Administrator during the course of a site visit or within a mutually agreeable time frame. Such records must be an exact duplicate image of the original paper copy record with certifying signatures.
- (4) Each owner or operator of a GDF must keep records as specified in subsections (4)(a) and (b).
 - (a) Records of the occurrence and duration of each malfunction of operation, i.e., process equipment, or the air pollution control and monitoring equipment.
 - (b) Records of actions taken during periods of malfunction to minimize emissions in accordance with 44-225(2), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

Section 44-280 Reporting Requirements

- (1) Each owner or operator subject to 44-240 must report to the LRAPA and the EPA Administrator the results of all tests required in 44-250. Test results must be submitted within 30 days of the completion of the performance testing.
- (2) Annual report. Each owner or operator of a GDF that has monthly throughput of 10,000 gallons of gasoline or more must report, by February 15 of each year, the following information, as applicable.
 - (a) The total throughput volume of gasoline, in gallons, for each calendar month.

- (b) A summary of changes made at the facility on vapor recovery equipment which may affect emissions.
- (c) List of all major maintenance performed on pollution control devices.
- (d) The number, duration, and a brief description of each type of malfunction which occurred during the previous calendar year and which caused or may have caused any applicable emission limitation to be exceeded.
- (e) A description of actions taken by the owner or operator of a GDF during a malfunction to minimize emissions in accordance with 44-225(2), including actions taken to correct a malfunction.

Section 44-290 Federal NESHAP Subpart A Applicability

Table 3 to 40 C.F.R. part 63 subpart CCCCCC shows which parts of the General Provisions apply to the owner or operator.

TABLE 1 (LRAPA 44-020) LIST OF HAZARDOUS AIR POLLUTANTS	
CAS NUMBER	CHEMICAL NAME
75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
53963	2-Acetylaminofluorene
107028	Acrolein
79061	Acrylamide
79107	Acrylic acid
107131	Acrylonitrile
8107051	Allyl chloride
92671	4-Aminobiphenyl
62533	Aniline
90040	o-Anisidine
1332214	Asbestos
71432	Benzene (including benzene from gasoline)
92875	Benzidine
98077	Benzotrichloride
100447	Benzyl chloride
92524	Biphenyl
117817	Bis(2-ethylhexyl) phthalate (DEHP)

TABLE 1 (LRAPA 44-020) LIST OF HAZARDOUS AIR POLLUTANTS	
CAS NUMBER	CHEMICAL NAME
542881	Bis(chloromethyl)ether
75252	Bromoform
106900	1,3-Butadiene
156627	Calcium cyanamide
133062	Captan
63252	Carbaryl
75150	Carbon disulfide
56235	Carbon tetrachloride
463581	Carbon sulfide
120809	Catechol
133904	Chloramben
57749	Chlordane
7782505	Chlorine
97118	Chloroacetic acid
532274	2-Chloroacetophenone
108907	Chlorobenzene
510156	Chlorobenzilate
67663	Chloroform
107302	Chloromethyl methyl ether
126998	Chloroprene
19773	Cresols/Cresylic acid (isomers and mixture)
95487	o-Cresol
108394	m-Cresol
106445	p-Cresol
98828	Cumene
94757	2,4-D, salts and esters
3547044	DDE
334883	Diazomethane
132649	Dibenzofurans
96128	1,2-Dibromo-3-chloropropane
84742	Dibutylphthalate
106467	1,4-Dichlorobenzene(p)
91941	3,3-Dichlorobenzidene

TABLE 1 (LRAPA 44-020) LIST OF HAZARDOUS AIR POLLUTANTS	
CAS NUMBER	CHEMICAL NAME
111444	Dichloroethyl ether [Bis(2-chloroethyl)ether]
542756	1,3-Dichloropropene
62737	Dichlorvos
111422	Diethanolamine
121697	N,N-Diethyl aniline (N,N-Dimethylaniline)
64675	Diethyl sulfate
119904	3,3-Dimethyloxybenzidine
60117	Dimethyl aminoazobenzene
119937	3,3-Dimethyl benzidine
79447	Dimethyl carbamoyl chloride
68122	Dimethyl formamide
57147	1,1-Dimethyl hydrazine
131113	Dimethyl phthalate
77781	Dimethyl sulfate
534521	4,6-Dinitro-o-cresol, and salts
51285	2,4-Dinitrotoluene
121142	2,4-Dinitrotoluene
123911	1,4-Dioxane (1,4-Diethyleneoxide)
122667	1,2-Diphenylhydrazine
106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)
106887	1,2-Epoxybutane
140885	Ethyl acrylate
100414	Ethyl benzene
51796	Ethyl carbamate (Urethane)
75003	Ethyl chloride (Chlorethane)
106934	Ethylene dibromide (Dibromoethane)
107062	Ethylene dichloride (1,2-Dichloroethane)
107211	Ethylene glycol
151564	Ethylene imine (Aziridine)
75218	Ethylene oxide
96457	Ethylene thiourea
75343	Ethylidene dichloride (1,1,-Dichloroethane)
50000	Formaldehyde

TABLE 1 (LRAPA 44-020) LIST OF HAZARDOUS AIR POLLUTANTS	
CAS NUMBER	CHEMICAL NAME
76448	Heptachlor
118741	Hexachlorobenzene
87683	Hexachlorobutadiene
77474	Hexachlorocyclopentadiene
67721	Hexachloroethane
822060	Hexamethylene-1,6-diisocyanate
680319	Hexamethylphosphoramide
110543	Hexane
302012	Hydrazine
7647010	Hydrochloric acid
7664393	Hydrogen fluoride (Hydrofluoric acid)
123319	Hydroquinone
78591	Isophorone
58899	Lindane (all isomers)
108316	Maleic anhydride
67561	Methanol
72435	Methoxychlor
74839	Methyl bromide (Bromomethane)
74873	Methyl chloride (Chloromethane)
71556	Methyl chloroform (1,1,1-Trichloroethane)
60344	Methyl hydrazine
74884	Methyl iodide (Iodomethane)
108101	Methyl isobutyl ketone (Hexone)
624839	Methyl isocyanate
80626	Methyl methacrylate
1634044	Methyl tert butyl ether
101144	4,4-Methylene bis(2-Chloroaniline)
75092	Methylene chloride (Dichloromethane)
101688	Methylene diphenyl diisocyanate (MDI)
101779	4,4-Methylenedianiline
91203	Naphthalene
98953	Nitrobenzene
92933	4-Nitrobiphenyl

TABLE 1 (LRAPA 44-020) LIST OF HAZARDOUS AIR POLLUTANTS	
CAS NUMBER	CHEMICAL NAME
100027	4-Nitrophenol
79469	2-Nitropropane
684935	N-Nitroso-N-methylurea
62759	N-Nitrosodimethylamine
59892	N-Nitrosomorpholine
56382	Parathion
82688	Pentachloronitrobenzene (Quintobenzene)
87865	Pentachlorophenol
108952	Phenol
106503	p-Phenylenediamine
75445	Phosgene
7803512	Phosphine
7723140	Phosphorus
85449	Phthalic anhydride
1336363	Polychlorinated biphenyls (Aroclors)
1120714	1,3-Propane sultone
57578	beta-Propiolactone
123386	Propionaldehyde
114261	Propoxur (Baygon)
78875	Propylene dichloride (1,2-Dichloropropane)
75569	Propylene oxide
75558	1,2-Propylenimine (2-Methyl aziridine)
91225	Quinoline
106514	Quinone
100425	Styrene
96093	Styrene oxide
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79345	1,1,2,2-Tetrachloroethane
127184	Tetrachloroethylene (Perchloroethylene)
7550450	Titanium tetrachloride
108883	Toluene
95807	2,4-Toluene diamine
584849	2,4-Toluene diisocyanate

TABLE 1 (LRAPA 44-020) LIST OF HAZARDOUS AIR POLLUTANTS	
CAS NUMBER	CHEMICAL NAME
95534	o-Toluidine
8001352	Toxaphene (chlorinated camphene)
120821	1,2,4-Trichlorobenzene
79005	1,1,2-Trichloroethane
79016	Trichloroethylene
95954	2,4,5-Trichlorophenol
88062	2,4,6-Trichlorophenol
121448	Triethylamine
1582098	Trifluralin
540841	2,2,4-Trimethylpentane
108054	Vinyl acetate
593602	Vinyl bromide
75014	Vinyl chloride
75354	Vinylidene chloride (1,1-Dichloroethylene)
1330207	Xylenes (isomers and mixture)
95476	o-Xylenes
108383	m-Xylenes
106423	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds ¹
0	Glycol ethers ²
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers ³
0	Nickel Compounds
0	Polycyclic Organic Matter ⁴

TABLE 1 (LRAPA 44-020) LIST OF HAZARDOUS AIR POLLUTANTS	
CAS NUMBER	CHEMICAL NAME
0	Radionuclides (including radon) ⁵
0	Selenium Compounds

NOTE: For all listings above which contain the word “compounds” and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical’s infrastructure.

*1 X=CN where X = H= or any other group where a formal dissociation may occur. For example KCN or Ca(CN)₂

*2 Includes mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH₂CH₂)_n-OR= where: n = 1,2, or 3; R - alkyl or aryl groups; R= - R,H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH₂CH)_n-OH. Polymers are excluded from the glycol category.

*3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

*4 Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.

*5 A type of atom which spontaneously undergoes radioactive decay.

(Table 1 original adoption 06/11/02)

[Table 2: RESERVED]

[Table 3: RESERVED]

TITLE 44 – TABLE 4 (LRAPA 44-240) MANAGEMENT PRACTICES FOR GASOLINE DISPENSING FACILITIES SUBJECT TO STAGE I VAPOR CONTROLS	
If owning or operating	The owner or operator must
1. An existing GDF	Install and operate a vapor balance system on gasoline storage tanks that meets the design criteria in paragraphs (a) through (h). <ul style="list-style-type: none"> (a) All vapor connections and lines on the storage tank must be equipped with closures that seal upon disconnect. (b) The vapor line from the gasoline storage tank to the gasoline cargo tank must be vapor-tight, as defined in section 44-180. (c) The vapor balance system must be designed such that the pressure in the tank truck does not exceed 18 inches water pressure or 5.9 inches water vacuum during product transfer. (d) The vapor recovery and product adaptors, and the method of connection with the delivery elbow, must be designed so as to prevent the over-tightening or loosening of fittings during normal delivery operations. (e) If a gauge well separate from the fill tube is used, it must be provided with a submerged drop tube that extends the same distance from the bottom of the storage tank as specified in section 44-240(2).

	<p>(f) Liquid fill connections for all systems must be equipped with vapor-tight caps.</p> <p>(g) Pressure/vacuum (PV) vent valves must be installed on the storage tank vent pipes. The pressure specifications for PV vent valves must be: a positive pressure setting of 2.5 to 6.0 inches of water and a negative pressure setting of 6.0 to 10.0 inches of water. The total leak rate of all PV vent valves at an affected facility, including connections, must not exceed 0.17 cubic foot per hour at a pressure of 2.0 inches of water and 0.63 cubic foot per hour at a vacuum of 4 inches of water.</p> <p>(h) The vapor balance system must be capable of meeting the static pressure performance requirement of the following equation:</p> $Pf = 2e^{-500.887/v}$ <p>Where:</p> <p>Pf = Minimum allowable final pressure, inches of water. v = Total ullage affected by the test, gallons. e = Dimensionless constant equal to approximately 2.718. 2 = The initial pressure, inches water.</p>
2. For a new or reconstructed GDF with monthly throughput of 100,000 gallons of gasoline or more, or a new storage tank(s) at an existing GDF with monthly throughput of 100,000 gallons of gasoline or more	Install and operate a dual-point vapor balance system, as defined in section 44-180, on each affected gasoline storage tank and comply with the design criteria in item 1 of this Table.

TITLE 44 – TABLE 5 (LRAPA 44-240) MANAGEMENT PRACTICES FOR GASOLINE CARGO TANKS UNLOADING AT GASOLINE DISPENSING FACILITIES EQUIPPED WITH STAGE I VAPOR CONTROLS	
If owning or operating	The owner or operator must
A gasoline cargo tank	<p>Not unload gasoline into a storage tank at a GDF with stage I vapor controls unless the following conditions are met:</p> <ul style="list-style-type: none"> i. All hoses in the vapor balance system are properly connected, ii. The adapters or couplers that attach to the vapor line on the storage tank have closures that seal upon disconnect, iii. All vapor return hoses, couplers, and adapters used in the gasoline delivery are vapor-tight, iv. All tank truck vapor return equipment is compatible in size and forms a vapor-tight connection with the vapor balance equipment on the GDF storage tank, and v. All hatches on the tank truck are closed and securely fastened. vi. The filling of storage tanks at GDF must be limited to unloading by vapor-tight gasoline cargo tanks. Documentation that the cargo tank has met the specifications of EPA Method 27 must be carried on the cargo tank.

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(Table 4 Original Adoption 01/12/2010)

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 46

NEW SOURCE PERFORMANCE STANDARDS

The existing title 46 was rescinded in its entirety on November 10, 1994, and this new title 46 was adopted in its place. Subsequent updates and modifications were adopted on October 14, 2008 and November 12, 2015. These sections are the same as DEQ's Standards of Performance for New Stationary Sources contained in OAR 340 division 238.

Section 46-505 Statement of Purpose

The U. S. Environmental Protection Agency has adopted in **Title 40, Code of Federal Regulations, Part 60**, Standards of Performance for certain new stationary sources. It is the intent of LRAPA title 46 to specify requirements and procedures necessary for LRAPA to implement and enforce the aforementioned Federal Regulations.

Section 46-510 Definitions

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

- (1) "Administrator" means the Administrator of the EPA or authorized representative.
- (2) "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.
- (3) "Capital Expenditure" means an expenditure for a physical or operational change to an existing facility which exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.
- (4) "C.F.R." means the July 1, 2017 edition of the Code of Federal Regulations unless otherwise identified.
- (5) "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 C.F.R. 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.
- (6) "Commenced", with respect to the definition of "new source" in section 111(a)(2) of the FCAA, means that an owner or operator has undertaken a continuous program of construction

or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

- (7) "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before 5/30/91 and has accepted waste at any time since 11/08/87 or has additional design capacity available for future waste deposition.
- (8) "Existing Facility" means, with reference to a stationary source, any apparatus of the type for which a standard is promulgated in 40 C.F.R. Part 60, and the construction or modification of which commenced before the date of proposal by EPA of that standard; or any apparatus which could be altered in such a way as to be of that type.
- (9) "Fixed Capital Cost" means the capital needed to provide all the depreciable components.
- (10) "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters.
- (11) "Modification"
 - (a) Except as provided in paragraph (b), means any physical change in, or change in the method of operation of, an existing facility that increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or that results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted;
 - (b) As used in section 46-900 means an action that results in an increase in the design capacity of a landfill.
- (12) "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification).
- (13) "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after 5/30/91.
- (14) "Reconstruction" means the replacement of components of an existing facility to such an extent that:
 - (a) The fixed capital cost of the new components exceeds 50 percent of the fixed capital

cost that would be required to construct a comparable entirely new facility; and

- (b) It is technologically and economically feasible to meet the applicable standards set forth in 40 C.F.R. Part 60.
- (15) "Reference Method" means any method of sampling and analyzing for an air pollutant as specified in 40 C.F.R. Part 60.
- (16) "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters.
- (17) "Standard" means a standard of performance proposed or promulgated under 40 C.F.R. Part 60.
- (18) "State Plan" means a plan developed for the control of a designated pollutant provided under 40 C.F.R. Part 60.

Section 46-515 Statement of Policy

It is the policy of the Board to consider the performance standards for new stationary sources contained in this title to be minimum standards; and as technology advances, conditions warrant, and LRAPA rules require or permit, additional rules may be adopted.

Section 46-520 Delegation

- (1) The EQC authorizes LRAPA to implement and enforce, within its boundaries, the provisions of OAR 340 division 238.
- (2) The EQC may authorize LRAPA to implement and enforce its own provisions upon a finding that such provisions are at least as strict as a corresponding provision in OAR 340 division 238. LRAPA may implement and enforce provisions authorized by the EQC in place of any or all of OAR 340 division 238 upon receipt of delegation from EPA. Delegation may be withdrawn for cause by the EQC.

Section 46-525 Applicability

This title applies to stationary sources subject to **40 C.F.R. part 60** as adopted under section 46-535.

Section 46-530 General Provisions

- (1) Except as provided in subsection (2), 40 C.F.R., Part 60, Subpart A is by this reference adopted and incorporated herein.
- (2) Where "Administrator" or "EPA" appears in 40 C.F.R. Part 60, **Subpart A**, "LRAPA" is substituted, except in any section of 40 C.F.R. Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state or regional authority.

PERFORMANCE STANDARDS

Section 46-535 Federal Regulations Adopted by Reference

- (1) Except as provided in subsection (2), 40 C.F.R., Part 60, Subparts A, D through EE, GG, HH, KK through NN, PP through XX, BBB, DDD, FFF through LLL, NNN through WWW, AAAA, CCCC, EEEE, KKKK, LLLL, OOOO, and TTTT are by this reference adopted and incorporated herein, 40 C.F.R. Part 60 Subpart OOO is by this reference adopted and incorporated herein for major sources only, 40 C.F.R. Part 60 Subpart IIII and JJJJ are by this reference adopted and incorporated herein only for sources required to have a Title V or ACDP permit and excluding the requirements for engine manufacturers.
- (2) Where "Administrator" or "EPA" appears in **40 C.F.R. Part 60**, "LRAPA" shall be substituted, except in any section of **40 C.F.R. Part 60** for which a federal rule or delegation specifically indicates that authority will not be delegated to the state or regional authority.
- (3) 40 C.F.R. Part 60 Subparts adopted by this section are titled as follows:
 - (a) Subpart A -- General Provisions;
 - (b) Subpart D -- Fossil-fuel-fired steam generators for which construction is commenced after August 17, 1971;
 - (c) Subpart Da -- Electric utility steam generating units for which construction is commenced after September 18, 1978;
 - (d) Subpart Db -- Industrial-commercial-institutional steam generating units;
 - (e) Subpart Dc -- Small industrial-commercial-institutional steam generating units;
 - (f) Subpart E -- Incinerators;
 - (g) Subpart Ea -- Municipal waste combustors for which construction is commenced after December 20, 1989 and on or before September 20, 1994;
 - (h) Subpart Eb -- Municipal waste combustors for which construction is commenced after September 20, 1994;
 - (i) Subpart Ec -- Hospital/Medical/Infectious waste incinerators that commenced construction after June 20, 1996, or for which modification is commenced after March 16, 1998;
 - (j) Subpart F -- Portland cement plants;
 - (k) Subpart G -- Nitric acid plants;
 - (l) Subpart Ga -- Nitric acid plants for which construction, reconstruction, or modification commenced after October 14, 2011;
 - (m) Subpart H -- Sulfuric acid plants;

- (n) Subpart I -- Hot mix asphalt facilities;
- (o) Subpart J -- Petroleum refineries;
- (p) Subpart K -- Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after June 11, 1973, and before May 19, 1978;
- (q) Subpart Ka -- Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after May 18, 1978, and before July 23, 1984;
- (r) Subpart Kb -- Volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984;
- (s) Subpart L -- Secondary lead smelters;
- (t) Subpart M -- Secondary brass and bronze production plants;
- (u) Subpart N -- Primary emissions from basic oxygen process furnaces for which construction is commenced after June 11, 1973;
- (v) Subpart Na -- Secondary emissions from basic oxygen process steelmaking facilities for which construction is commenced after January 20, 1983;
- (w) Subpart O -- Sewage treatment plants;
- (x) Subpart P -- Primary copper smelters;
- (y) Subpart Q -- Primary Zinc smelters;
- (z) Subpart R -- Primary lead smelters;
- (aa) Subpart S -- Primary aluminum reduction plants;
- (bb) Subpart T -- Phosphate fertilizer industry: wet-process phosphoric acid plants;
- (cc) Subpart U -- Phosphate fertilizer industry: superphosphoric acid plants;
- (dd) Subpart V -- Phosphate fertilizer industry: diammonium phosphate plants;
- (ee) Subpart W -- Phosphate fertilizer industry: triple superphosphate plants;
- (ff) Subpart X -- Phosphate fertilizer industry: granular triple superphosphate storage facilities;
- (gg) Subpart Y -- Coal preparation plants;
- (hh) Subpart Z -- Ferroalloy production facilities;
- (ii) Subpart AA -- Steel plants: electric arc furnaces constructed after October 21, 1974 and on or before August 17, 1983;

- (jj) Subpart AAa -- Steel plants: electric arc furnaces and argon-oxygen decarburization vessels constructed after August 7, 1983;
- (kk) Subpart BB -- Kraft pulp mills;
- (ll) Subpart BBa -- Kraft pulp mills affected for which construction, or modification commences after May 23, 2013.
- (mm) Subpart CC -- Glass manufacturing plants;
- (nn) Subpart DD -- Grain elevators;
- (oo) Subpart EE -- Surface coating of metal furniture;
- (pp) Subpart GG -- Stationary gas turbines;
- (qq) Subpart HH -- Lime manufacturing plants;
- (rr) Subpart KK -- Lead-acid battery manufacturing plants;
- (ss) Subpart LL -- Metallic mineral processing plants;
- (tt) Subpart MM -- Automobile and light-duty truck surface coating operations;
- (uu) Subpart NN -- Phosphate rock plants;
- (vv) Subpart PP -- Ammonium sulfate manufacture;
- (ww) Subpart QQ -- Graphic arts industry: publication rotogravure printing;
- (xx) Subpart RR -- Pressure sensitive tape and label surface coating operations;
- (yy) Subpart SS -- Industrial surface coating: large appliances;
- (zz) Subpart TT -- Metal coil surface coating;
- (aaa) Subpart UU -- Asphalt processing and asphalt roofing manufacture;
- (bbb) Subpart VV -- Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry;
- (ccc) Subpart VVa -- Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry;
- (ddd) Subpart WW -- Beverage can surface coating industry;
- (eee) Subpart XX -- Bulk gasoline terminals;
- (fff) Subpart BBB -- Rubber tire manufacturing industry;
- (ggg) Subpart DDD -- Volatile organic compound (VOC) emissions for the polymer manufacture industry;
- (hhh) Subpart FFF -- Flexible vinyl and urethane coating and printing;

- (iii) Subpart GGG -- Equipment leaks of VOC in petroleum refineries;
- (jjj) Subpart GGGa-- Equipment leaks of VOC in petroleum refineries;
- (kkk) Subpart HHH -- Synthetic fiber production facilities;
- (lll) Subpart III -- Volatile organic compound (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) air oxidation unit processes;
- (mmm) Subpart JJJ -- Petroleum dry cleaners;
- (nnn) Subpart KKK -- Equipment leaks of VOC from onshore natural gas processing plants;
- (ooo) Subpart LLL -- Onshore natural gas processing; SO₂ emissions;
- (ppp) Subpart NNN -- Volatile organic compound (VOC) emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations;
- (qqq) Subpart OOO -- Nonmetallic mineral processing plants (adopted by reference for major sources only);
- (rrr) Subpart PPP -- Wool fiberglass insulation manufacturing plants;
- (sss) Subpart QQQ -- VOC emissions from petroleum refinery wastewater systems;
- (ttt) Subpart RRR -- Volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes;
- (uuu) Subpart SSS -- Magnetic tape coating facilities;
- (vvv) Subpart TTT -- Industrial surface coating: surface coating of plastic parts for business machines;
- (www) Subpart UUU -- Calciners and dryers in mineral industries;
- (xxx) Subpart VVV -- Polymeric coating of supporting substrates facilities;
- (yyy) Subpart WWW -- Municipal solid waste landfills, as clarified by section 46-900;
- (zzz) Subpart AAAA -- Small municipal waste combustion units;
- (aaaa) Subpart CCCC -- Commercial and industrial solid waste incineration units;
- (bbbb) Subpart EEEE-- Other solid waste incineration units;
- (cccc) Subpart IIII -- Stationary compression ignition internal combustion engines (adopted only for sources required to have a Title V or ACDP permit), excluding the requirements for engine manufacturers (40 C.F.R. 60.4201 through 60.4203, 60.4210, 60.4215, and 60.4216);
- (dddd) Subpart JJJJ -- Stationary spark ignition internal combustion engines (adopted only for sources required to have a Title V or ACDP permit), excluding the requirements for engine manufacturers (40 C.F.R. 60.4231 through 60.4232, 60.4238 through 60.4242, and 60.4247);

- (eeee) Subpart KKKK -- Stationary combustion turbines;
- (ffff) Subpart LLLL -- Sewage sludge incineration units;
- (gggg) Subpart OOOO -- Crude oil and natural gas production, transmission and distribution;
- (hhhh) Subpart OOOOa -- Crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after September 18, 2015; and
- (iiii) Subpart TTTT -- Greenhouse gas emissions for electric generating units.

Section 46-800 Compliance

Compliance with standards set forth in LRAPA section 46-535 shall be determined by performance tests and monitoring methods as set forth in the Federal Regulation adopted by reference in section 46-530.

Section 46-805 More Restrictive Regulations

If at any time there is a conflict between LRAPA or Department rules and the Federal Regulations (**40 C.F.R. part 60**), both shall apply.

Section 46-900 Municipal Solid Waste Landfills

- (1) Applicability. The following small and large municipal solid waste landfills must comply with **40 C.F.R. Part 60, Subpart WWW**:
 - (a) Landfills constructed after 5/30/91;
 - (b) Existing landfills with modifications after 5/30/91;
 - (c) Landfills that closed after 11/08/87 with modifications after 5/30/91.
- (2) Permitting requirements. Landfills subject to **40 C.F.R. Part 60, Subpart WWW** must comply with Oregon Title V Operating Permit Program Requirements as specified in OAR 340 divisions 218 and 220:
 - (a) Existing large landfills with modifications after 5/30/91 must submit a complete Federal Operating Permit application by 3/12/97;
 - (b) Existing large landfills with modifications after 3/12/97 must submit a complete Federal Operating Permit application the earliest of one year from the date EPA approves the 111(d) State Plan for this section, or within one year of the modification;
 - (c) New large landfills, which includes newly constructed large landfills after 3/12/96 and existing small landfills that become large landfills after 3/12/96 must submit a complete Federal Operating Permit application within one year of becoming subject to this requirement;

- (d) New and modified existing small landfills that are major sources as defined in title 12 must submit a complete Federal Operating Permit application within one year of becoming a major source.
- (3) Reporting requirements. Landfills subject to **40 C.F.R. Part 60, Subpart WWW** must comply with the following:
 - (a) Large landfills listed in paragraph (1)(a) through (c) of this section must:
 - (A) Submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within 30 days of the effective date of this section; and
 - (B) Submit an annual Nonmethane Organic Compound Report until nonmethane emissions are 50 mg/yr.
 - (b) Small landfills listed in subsection (1)(a) through (c) of this section must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within 30 days of the effective date of this section;
 - (c) Landfills subject to this section after the effective date of this section must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within 30 days of becoming subject to this section.

LANE REGIONAL AIR PROTECTION AGENCY
TITLE 47
Outdoor Burning

Outdoor burning in compliance with the sections in LRAPA Title 47 does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order, or decree of this or any other governmental entity having jurisdiction.

Section 47-001 General Policy

In accordance with OAR 340-264-0160(1), the rules and regulations of LRAPA apply to outdoor burning in Lane County. In order to restore and maintain Lane County air quality in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the County, it is the policy of the Lane Regional Air Protection Agency to eliminate outdoor burning disposal practices where alternative disposal methods are feasible. As a result, all outdoor burning is prohibited in Lane County except as expressly allowed by Title 47 or if exempted from Title 47 by Oregon Statute. Contained in this title are the requirements for the outdoor burning of residential, construction, demolition, commercial, industrial waste, forest slash waste on properties outside areas covered by the Oregon Smoke Management Plan, bonfires, and for ecological conversion.

Section 47-001 Amended 03/14/08 (Amended 10/12/17)

Section 47-005 Exemptions from LRAPA Title 47

(1) Statutory exemptions. Due to Oregon statutory exemptions, this title shall not apply to the following:

- (a) The operation of residential barbecue equipment for the purpose of cooking food for human consumption, except that materials described in 47-015(1)(e) shall not be used as fuel.
- (b) Fires set or permitted by any public agency in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, a hazard to public health or safety, or for the instruction of employees in the methods of fire fighting.
- (c) Agricultural outdoor burning conducted pursuant to ORS 468A.020. Agricultural outdoor burning is still subject to the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (d) Outdoor burning on forest land permitted under the Oregon Department of Forestry (ODF) Smoke Management Plan filed with the Secretary of State.

(2) Other exemptions.

- (a) Recreational fires are allowed when set for recreational purposes on private property or in designated recreational areas (such as parks, recreational campsites, and

campgrounds). Prohibited materials listed in 47-015(1)(e), woody yard trimmings, leaves and grass clippings shall not be burned. Within the Eugene and Springfield Urban Growth Boundaries and within the city limits of Oakridge and surrounding Oakridge urban growth boundary, these fires are prohibited on Yellow and Red Home Wood Heating Advisory days set by LRAPA during the months of October through May unless extended by LRAPA. [NOTE: LOCAL ORDINANCES FROM MUNICIPALITIES, RULES FROM LOCAL FIRE DISTRICTS, AND RULES FROM OREGON DEPARTMENT OF FORESTRY AND STATE FIRE MARSHAL MAY BE MORE PROHIBITIVE.]

- (b) Outdoor barbecuing connected to a group outing, festival, fair or similar occasion when food is cooked by a fire that is sized proportionally to the amount of food being cooked, is allowed, except that prohibited materials listed in 47-015-(1)(e), woody yard trimmings, leaves, grass clippings, commercial, industrial, construction, and demolition waste shall not be burned.
- (c) Religious ceremonial fires as defined in Section 47-010 are allowed. Prohibited materials listed in 47-015(1)(e), woody yard trimmings, leaves and grass clippings shall not be burned. Larger fires would be required to be permitted under the “Bonfire” requirement.

Section 47-005 Amended 03/14/08 (Amended 10/12/17)

Section 47-010 Definitions

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

- "Agricultural outdoor burning" means the outdoor burning of vegetative "agricultural wastes," which are materials actually generated or used by an agricultural operation.
- "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 the sale of 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 or structures customarily provided in conjunction with the agricultural operation.
- "Agricultural waste" means any vegetative material actually generated or used by an agricultural operation but excluding those materials described in 47-015(1)(e).
- “Bonfire” means a controlled outdoor fire (combustible pile larger than 3 feet in diameter and 2 feet in height) held for celebratory, religious ceremonial, or entertainment purposes. The fire cannot serve as a disposal fire for woody yard trimmings, leaves, and grass clippings. Prohibited materials listed in 47-015(1)(e) shall not be burned. Bonfires may include clean woody construction/demolition/commercial material.
- "Commercial outdoor burning" means the outdoor burning of "commercial wastes," which are materials actually generated or used by a commercial operation including removed and transported materials, and excluding those materials described in 47-015(1)(e).

- "Construction outdoor burning" means the outdoor burning of "construction wastes," which are materials actually resulting from or produced by a building or construction project, excluding those materials described in 47-015(1)(e). The outdoor burning of construction waste materials which are actually resulting from or produced by a building or construction project, excluding those materials described in 47-015(1)(e), that are transported from tax lot of origin is Commercial outdoor burning.
- "Demolition outdoor burning" means the outdoor burning of "demolition wastes," which are materials actually resulting from or produced by the complete or partial destruction or tearing down of any man-made structure or the clearing of any site, or land clearing for site preparation for development, excluding those materials described in 47-015(1)(e). The outdoor burning of demolition waste materials which are actually resulting from or produced by the complete or partial destruction or tearing down of any man-made structure or the clearing of any site, or land clearing for site preparation for development, excluding those materials described in 47-015(1)(e), that are transported from tax lot of origin is Commercial outdoor burning.
- "Eugene and Springfield Urban Growth Boundaries" 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.
- "Forest slash outdoor burning" means burning of vegetative debris and refuse on forest land related to the growing and/or harvesting of forest tree species where there is no change in the use of the land from timber production. Forest slash outdoor burning does not include burning for commercial or individual use, or for any other type of land clearing not related to the growing and harvesting of forest tree species.
- "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and serving of food.
- "Industrial outdoor burning" means the outdoor burning of "industrial wastes," which are materials produced as a direct result of any manufacturing or industrial process, excluding those materials described in 47-015(1)(e).
- "Land clearing" means the removal of trees, brush, logs, stumps, debris, or man-made structures for the purpose of site clean-up or site preparation.
- "Leaves" means needle or leaf materials which have fallen from trees, shrubs, or plants on the property around a dwelling unit.
- "Nuisance" means a substantial and unreasonable interference with another's use and enjoyment of real property, or the substantial and unreasonable invasion of a right common to members of the general public. (See Title 12 of LRAPA's Rules and Regulations)
- "Outdoor burning (alternatively referred to as open burning)" includes burning in open fires, burn barrels, incinerators which do not meet emission limitations specified in Title 30 of LRAPA's Rules and Regulations, and any other outdoor burning which occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

- “Outdoor Burning Letter Permit (OBLP)” means an authorization issued pursuant to Section 47-020 to burn select materials at a defined site and under certain conditions.
- “Recreational fire” means a small fire (combustible pile no larger than 3 feet in diameter and 2 feet in height), limited to campfires or fires lit in Chimineas, patio fireplaces, fire pits, or other similar devices using charcoal, natural gas, propane, manufactured firelogs, or clean dry natural firewood as fuel, and which occurs in designated areas on public lands or on private property. The fire cannot serve as a disposal fire for waste materials, including woody yard trimmings, leaves, and grass clippings, or materials listed in 47-015(1)(e).
- “Religious ceremonial fire” means a small, controlled outdoor fire (combustible pile no larger than 3 feet in diameter and 2 feet in height), integral to a religious ceremony or ritual. Religious ceremonial fires may use charcoal, natural gas, propane, manufactured firelogs, or clean dry natural firewood as fuel, and may occur in designated areas on public lands or on private property. The fire cannot serve as a disposal fire for waste materials, including woody yard trimmings, leaves, and grass clippings. Prohibited materials listed in Section 47-015(1)(e) shall not be burned.
- "Residential outdoor burning" means the outdoor burning of clean, woody yard trimmings which are actually generated in or around a dwelling for four (4) or fewer family living units. Once this material is removed from the property of origin it becomes commercial waste. Such materials actually generated in or around a dwelling of more than four (4) family living units are commercial wastes.
- "Responsible person" means each person who is in ownership, control, or custody of the property on which the outdoor burning occurs, including any tenant thereof; or who is in ownership, control, or custody of the materials which are burned; or any person who causes or allows outdoor burning to be initiated or maintained.
- "Salvage" as used in Title 47, means the recovery, processing or use of woody debris for purposes including, but not limited to, energy production (such as fire wood or fuel), fiber production (such as soil amendments or mulch), or as a raw material for chemical or manufacturing processes.
- "Woody Yard Trimmings" means woody limbs, branches and twigs with any attached leaves which have been cut from or fallen from trees or shrubs from the property around a dwelling unit.

Section 47-010 Amended 03/14/08 (Amended 10/12/17)

Section 47-015 Outdoor Burning Requirements

- (1) General requirements to be met by all outdoor burning conducted in accordance with LRAPA's Rules and Regulations:
 - (a) All outdoor burning shall be constantly attended by a responsible person or an expressly authorized agent, until extinguished.

- (b) It shall be the duty of each responsible person to promptly extinguish any burning which is in violation of any of LRAPA's Rules and Regulations or of any permit issued by the Agency.
- (c) No person shall cause, or allow to be initiated or maintained, any outdoor burning which is prohibited by the burning advisory issued by the Agency.
- (d) No person shall cause, or allow to be initiated or maintained, any outdoor burning which creates a nuisance or a hazard to public safety.
- (e) No person shall cause, or allow to be initiated or maintained, outdoor burning of any material which normally emits dense smoke, noxious odors, or hazardous air contaminants; such materials may include but are not limited to garbage, plastics, wire insulation, automobile parts, asphalt, petroleum by-products, petroleum-treated materials, rubber products, cardboard, clothing, animal remains, grass clippings.
- (f) To promote efficient burning and prevent excessive emissions of smoke, each responsible person shall assure that all combustible material is dried to the extent practicable and loosely stacked or windrowed to eliminate dirt, rocks and other non-combustible materials; and periodically restack or feed the burning pile to enhance combustion.
- (g) No person shall cause, or allow to be initiated or maintained, any outdoor burning at any solid waste disposal site unless authorized by a Solid Waste Permit issued pursuant to Oregon Administrative Rules **(OAR) 340-094-0040**. The Agency shall be notified by the responsible person prior to such burning.
- (h) All burning shall be conducted in accordance with local fire safety regulations, including required minimum distances from structures.
- (i) Burning in barrels is prohibited.

(2) Residential Outdoor Burning Requirements

The residential outdoor burning season is October 1 through June 15, with the following restrictions:

- (a) Residential outdoor burning is allowed only on approved burning days with a valid fire permit (if required by fire district). The start and end times for burning vary and are set as part of the daily burning advisory issued by the Agency.
- (b) Outdoor burning within Eugene city limits is prohibited.
- (c) Outdoor burning outside the Eugene city limits but within the Eugene Urban Growth Boundary is prohibited except outdoor burning of woody yard trimmings is allowed on lots of two acres or more on approved burn days from March 1 through June 15 and October 1 through October 31.
- (d) Outdoor burning within Springfield city limits and the surrounding Springfield urban growth boundary is prohibited except that burning of woody yard trimmings is allowed

on lots of one half acre or more on approved burn days from March 1 through June 15 and October 1 through October 31.

- (e) Outdoor burning within Florence city limits is prohibited per Florence city ordinance.
- (f) Outdoor burning within Oakridge city limits and surrounding Oakridge urban growth boundary is prohibited November through February except that burning of woody yard trimmings is allowed on approved burn days from March 1 through June 15 and October 1 through October 31.
- (g) Outdoor burning within Lowell city limits and surrounding Lowell urban growth boundary is prohibited November through February except that burning of woody yard trimmings is allowed on approved burn days from March 1 through May 31 and October 1 through October 31.
- (h) Outdoor burning is prohibited within the Coburg, Cottage Grove, Creswell, Dunes City, Junction City, Veneta, and Westfir city limits except for the outdoor burning of woody yard trimmings on approved burn days from October 1 through June 15.
- (i) Within fire districts identified below and outside the city limits of Oakridge and surrounding urban growth boundary and outside the city limits of Cottage Grove, Coburg, Creswell, Junction City, Lowell, and Veneta the residential outdoor burning of woody yard trimmings and leaves is allowed on approved burn days from October 1 through June 15 within the fire districts identified below:
 - (1) Bailey-Spencer RFPD
 - (2) Coburg Fire District
 - (3) Dexter RFPD west of the Willamette Meridian
 - (4) Eugene RFPD #1
 - (5) Goshen Fire District
 - (6) Hazeldell RFPD
 - (7) Junction City RFPD
 - (8) Lane County Fire District #1 (Lane Fire Authority)
 - (9) Lane Rural Fire/Rescue (Lane Fire Authority) outside the Eugene and Springfield Urban Growth Boundaries
 - (10) Lowell RFPD
 - (11) McKenzie Fire & Rescue outside the Eugene and Springfield Urban Growth Boundaries
 - (12) Mohawk Valley RFPD
 - (13) Monroe RFPD, that portion within Lane County
 - (14) Oakridge Fire & EMS
 - (15) Pleasant Hill RFPD
 - (16) Santa Clara Fire District outside the Eugene and Springfield Urban Growth Boundaries
 - (17) Siuslaw Valley Fire & Rescue
 - (18) South Lane County Fire & Rescue
 - (19) Westfir Fire Department
 - (20) Willakenzie RFPD
 - (21) Zumwalt RFPD

- (j) Residential outdoor burning of woody yard trimmings and leaves is allowed in Lane County, outside of the affected areas defined in 47-015(2)(b) through (i) of this section, on approved burn days from October 1 through June 15.

(Note: Some fire districts require burning permits. Fire districts may restrict burning whenever fire danger dictates. Persons wishing to conduct residential outdoor burning should check first with their fire district.)

- (k) Failure to conduct residential outdoor burning in accordance with this section is a violation of Title 47 and may be cause for assessment of civil penalties. Citations will be issued by authorized enforcement agents to responsible person(s) where residential outdoor burning rules are violated pursuant to this section.

(3) Construction/Demolition Outdoor Burning Requirements

- (a) Construction/demolition outdoor burning is prohibited inside the Eugene and Springfield Urban Growth Boundaries.
- (b) Construction/demolition outdoor burning is prohibited inside the affected areas described in 47-015(2)(i), unless authorized pursuant to 47-020.
- (c) Construction/demolition outdoor burning is allowed elsewhere in Lane County, subject to the general requirements of 47-015(1).

(4) Commercial Outdoor Burning Requirements

- (a) Commercial outdoor burning is prohibited inside the Eugene and Springfield Urban Growth Boundaries.
- (b) Commercial outdoor burning is prohibited elsewhere, unless authorized pursuant to 47-020.

(5) Industrial Outdoor Burning Requirements

- (a) Industrial outdoor burning is prohibited inside the Eugene and Springfield Urban Growth Boundaries.
- (b) Industrial outdoor burning is prohibited elsewhere, unless authorized pursuant to 47-020.

(6) Forest Slash Outdoor Burning

- (a) Forest slash outdoor burning in areas covered by the Oregon Smoke Management Plan is regulated by the Oregon Department of Forestry (ODF) pursuant to Oregon Revised Statutes (ORS) 477.515.
- (b) Forest slash outdoor burning in Lane County which is in areas outside the Oregon Smoke Management Plan is treated by LRAPA as follows:

- (A) Forest slash outdoor burning is prohibited inside the Eugene and Springfield Urban Growth Boundaries.
- (B) Forest slash outdoor burning elsewhere in Lane County, on properties which are not covered by the ODF Smoke Management Plan, is prohibited unless authorized pursuant to 47-020.
- (C) Forest slash outdoor burning will be coordinated with the ODF South Cascade and Western Lane districts to ensure burning complies with resource protection standards under the Oregon Forest Practices Act.

Section 47-015 Amended 03/14/08 (Amended 10/12/17)(Amended 4/12/18)

Section 47-020 Outdoor Burning Letter Permits (OBLP)

- (1) Outdoor burning of commercial, industrial, construction, demolition, or forest slash wastes on a singly occurring or infrequent basis, which is otherwise prohibited, and a bonfire held for a single event, may be permitted by a letter permit issued by the Agency in accordance with this title and subject to the general requirements in 47-015(1).
- (2) Prescribed burning of standing vegetation for the purpose of species or wetland conversion, pursuant to federal or state laws or programs to promote or enhance habitat for indigenous species of plants or animals, which is otherwise prohibited, may be permitted by a letter permit issued by the Agency in accordance with 47-020. These permits require a permit fee of \$1,000. The Director in his or her discretion may compromise the permit fee based upon factors that include, but are not limited to, complexity of the permit, number of proposed units, staff resources required or projected to be required relative to monitoring, public outreach and complaint response.
- (3) Prior to any burning, the applicant must also obtain a valid fire permit issued by the fire permit issuing agency having jurisdiction.
- (4) Permits issued for outdoor burning other than prescribed burning of standing vegetation n,as described above in 47-020(2), require a permit fee of \$10 per cubic yard, with a minimum fee of \$100.
- (5) The following factors shall be evaluated in determining whether a letter permit will be approved or denied:
 - (a) The quantity, type, and combustibility of the materials proposed to be burned;
 - (b) The costs and practicability of alternative disposal methods, including on-site and landfill disposal and salvage;
 - (c) The seasonal timing and expected duration of the burn;
 - (d) The willingness and ability of the applicant to promote efficient combustion by using heavy equipment, fans, pit incineration, or other appropriate methods;

- (e) The location of the proposed burn site with respect to potential adverse impacts;
 - (f) The expected frequency of the need to dispose of materials by burning in the future;
 - (g) Any prior outdoor burning violations by the applicant; and
 - (h) Any additional relevant information.
- (6) Upon receipt and review of the required information, the Agency may approve the application if it is satisfied that:
- (a) The applicant has demonstrated that all reasonable alternatives have been explored and no practicable alternative method for disposal of the material exists;
 - (b) The proposed burning will not cause or contribute to significant degradation of air quality; and
 - (c) There will be no actual or projected violation of any statute, rule, regulation, order, permit, ordinance, judgment, or decree.
- (7) The Agency may revoke or suspend an issued letter permit, with no refund of the fee, via written or verbal notice, on any of the following grounds:
- (a) Any material misstatement or omission in the required application information;
 - (b) If the conditions of the permit are being violated;
 - (c) Any actual or projected violation of any statute, rule, regulation, order, permit, ordinance, judgment, or decree; and
 - (d) Any other relevant factor.
- (8) Failure to conduct outdoor burning according to the conditions, limitations, or terms of a letter permit, or any outdoor burning in excess of that permitted by the letter permit, shall be a violation of the permit and shall be cause for assessment of civil penalties or for other enforcement action by the Agency.
- (9) Each letter permit issued by the Agency pursuant to this title shall contain at least the following elements:
- (a) The location at which the burning is permitted to take place;
 - (b) A description of the material that may be burned;
 - (c) The calendar period during which the burning is permitted to take place;
 - (d) The equipment and methods required to be used by the applicant to insure efficient burning;

- (e) The limitations, if any, based upon meteorological conditions required before burning may occur;
- (f) Reporting requirements for both starting the fire and completion of the requested burning;
- (g) A statement that Section 47-015(1) is fully applicable to all burning under the permit;
- (h) Such other conditions that the Agency considers to be desirable; and
- (i) A statement that the respective fire department may include any control, suppression, safety, or hazard conditions deemed appropriate by the fire department.

(10) Letter permits issued by the Agency pursuant to this title shall be forwarded to the fire permit issuing agency having jurisdiction. The fire permit issuing agency has the ultimate authority to issue or deny the burn permit.

Section 47-020 Amended 03/14/08 (Amended 10/12/17)

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 48

RULES FOR FUGITIVE EMISSIONS

Section 48-001 General Policy

In order to restore and maintain Lane County air quality in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the county, it is the policy of LRAPA to require the application of reasonable measures to minimize fugitive emissions to the greatest extent practicable.

Section 48-005 Definitions

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

- (1) “Abate” means to eliminate the fugitive emissions by reducing or managing the emissions using reasonably available practices. The degree of abatement will depend on an evaluation of all of the circumstances of each case and does not necessarily mean completely eliminating the emissions.

Section 48-010 General Applicability

- (1) Except for agricultural activities which are exempted by state statute, this title apply to all sources of fugitive emissions within Lane County.
- (2) Examples of sources affected by these rules are:
 - (a) Construction activities including land clearing and topsoil disturbance;
 - (b) Demolition activities;
 - (c) Unpaved traffic areas and parking lots where there are nuisance conditions;
 - (d) Material handling and storage operations;
 - (e) Mining and yarding activities including access and haul roads;
 - (f) Storage piles of dusty materials;
 - (g) Manufacturing operations.

Section 48-015 General Requirements for Fugitive Emissions

- (1) No person shall cause, suffer, allow or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished; or any equipment to be operated, without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, but are not limited to the following:
 - (a) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;
 - (b) Application of water or other suitable chemicals on unpaved roads, material stockpiles, and other surfaces which can create airborne dusts;
 - (c) Full or partial enclosure of materials stockpiles in cases where application of water or other suitable chemicals is not sufficient to prevent particulate matter from becoming airborne;
 - (d) Installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials;
 - (e) Adequate containment during sandblasting or other similar operations;
 - (f) The covering of moving, open-bodied trucks transporting materials likely to become airborne;
 - (g) The prompt removal from paved streets of earth or other material which does or may become airborne.
- (2) When fugitive particulate emissions escape from an air contaminant source, LRAPA may order the owner or operator to abate the emissions. In addition to other means, LRAPA may order that the building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that air contaminants are controlled or removed before discharge to the open air.
 - (a) For purposes of this section, fugitive emissions are visible emissions that leave the property of a source for a period or periods totaling more than 18 seconds in a six minute period. The minimum observation time must be at least six minutes unless otherwise specified in a permit.
 - (b) Fugitive emissions are determined by EPA Method 22 at the downwind property boundary.
- (3) If requested by LRAPA, the owner or operator must develop a fugitive emission control plan, including but not limited to the work practices in subsection (1), that will prevent any visible emissions from leaving the property of a source for more than 18 seconds in a six-minute period following the procedures of EPA Method 22.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 49

NUISANCE CONTROL REQUIREMENTS

Section 49-005 Definitions

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

- (1) "Abate" means to eliminate the nuisance or suspected nuisance by reducing or managing the emissions using reasonably available practices. The degree of abatement will depend on an evaluation of all of the circumstances of each case and does not necessarily mean completely eliminating the emissions.
- (2) "Nuisance" means a substantial and unreasonable interference with another's use and enjoyment of real property, or the substantial and unreasonable invasion of a right common to members of the general public.

Section 49-010 Nuisance Prohibited

- (1) No person may cause or allow air contaminants from any source subject to regulation by LRAPA to cause a nuisance.
- (2) Upon determining that a nuisance may exist, LRAPA will provide written notice to the person creating the suspected nuisance. LRAPA will endeavor to resolve observed nuisances in keeping with the policy outlined in 15-001. If LRAPA subsequently determines that a nuisance exists under 49-020 and proceeds with a formal enforcement action pursuant to title 15, the first day for determining penalties will be no earlier than the date of this written notice.

Section 49-020 Determining Whether a Nuisance Exists

- (1) In determining whether a nuisance exists, LRAPA may consider factors including, but not limited to, the following:
 - (a) Frequency of the emissions;
 - (b) Duration of the emissions;
 - (c) Strength or intensity of the emissions, odors, or other offending properties of the emissions;
 - (d) Number of people impacted;
 - (e) The suitability of each party's use to the character of the locality in which it is conducted;
 - (f) Extent and character of the harm to complainants; and

- (g) The source's ability to prevent or avoid harm.
- (2) Compliance with a best work practices agreement that identifies and abates a suspected nuisance constitutes compliance with 49-010 for the identified nuisance. For sources subject to 37-0020 or OAR 340-218-0020, compliance with specific permit conditions that results in the abatement of a nuisance associated with an operation, process or other pollutant-emitting activity constitutes compliance with 49-010 for the identified nuisance. For purposes of this section, "permit condition" does not include the general condition prohibiting the creation of nuisances.

49-030 Best Work Practices Agreement

- (1) A person may voluntarily enter into an agreement with LRAPA to implement specific practices to abate the suspected nuisance. This agreement may be modified by mutual consent of both parties. This agreement will be an Order for the purposes of enforcement under title 15.
- (2) For any source subject to title 37, the conditions outlined in the best work practices agreement will be incorporated into the permit at the next permit renewal or modification.
- (3) This agreement will remain in effect unless or until LRAPA provides written notification to the person subject to the agreement that:
- (a) The agreement is superseded by conditions and requirements established later in a permit;
 - (b) LRAPA determines the activities that were the subject of the agreement no longer occur; or
 - (c) LRAPA determines that further reasonably available practices are necessary to abate the suspected nuisance.
- (4) The agreement will include one or more specific practices to abate the suspected nuisance. The agreement may contain other requirements including, but not limited to:
- (a) Monitoring and tracking the emissions of air contaminants;
 - (b) Logging complaints and the source's response to the complaints; and
 - (c) Conducting a study to propose further refinements to best work practices.
- (5) LRAPA will consult, as appropriate, with complainants with standing in the matter throughout the development, preparation, implementation, modification and evaluation of a best work practices agreement. LRAPA will not require that complainants identify themselves to the source as part of the investigation and development of the best work practices agreement.

Section 49-040 Masking of Emissions

[Note: This section was moved to 32-050]

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 50

AMBIENT AIR STANDARDS AND PSD INCREMENTS

Section 50-001 Definitions

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

- (1) "Approved Method" means an analytical method for measuring air contaminant concentrations described or referenced in 40 CFR part 50 and Appendices. These methods are approved by LRAPA.
- (2) "Oregon standard method" means any method of sampling and analyzing for an air contaminant approved by LRAPA. Oregon standard methods are kept on file by LRAPA and include all methods described in the DEQ Source Sampling Manual and the DEQ Continuous Monitoring Manual referenced in OAR 340-200-0035(2) and (3), respectively.

Ambient Air Quality Standards

Section 50-005 Purpose and Scope of Ambient Air Quality Standards

- (1) An ambient air quality standard is an established concentration, exposure time, and frequency of occurrence of an air contaminant or multiple contaminants in the ambient air that must not be exceeded. The ambient air quality standards set forth in 50-005 through 50-045 were established to protect both public health and public welfare.
- (2) Ambient air quality standards are not generally used to determine the acceptability or unacceptability of emissions from a specific source of air contamination. More commonly, the measured ambient air quality is compared with the ambient air quality standards to determine the adequacy or effectiveness of emission standards for all sources in a general area. However, if a source or combination of sources are singularly responsible for a violation of ambient air quality standards in a particular area, it may be appropriate to impose emission standards that are more stringent than those otherwise applied to the class of sources involved. Similarly, proposed construction of new sources or expansions of existing sources, that may prevent or interfere with the attainment and maintenance of ambient air quality standards are grounds for issuing an order prohibiting such proposed construction as authorized by ORS 468A.055 and pursuant to 34-010 through 34-038 and OAR 340-218-0190. No source may cause or contribute to a new violation of an ambient air quality standard or PSD increment even if the single source impact is less than the significant impact level.
- (3) In adopting the ambient air quality standards in this title, LRAPA recognizes that one or more of the standards are currently being exceeded in certain parts of the state. It is hereby declared to be the policy of LRAPA to achieve, by application of a timely but orderly program of pollution abatement, full compliance with ambient air quality standards throughout the state at the earliest possible date.

Section 50-010 Particle Fallout

- (1) The particle fallout rate as measured by an Oregon standard method at a location approved by LRAPA must not exceed:
 - (a) 10 grams per square meter per month in an industrial area.
 - (b) 5.0 grams per square meter per month in an industrial area if visual observations show a presence of wood waste or soot and the volatile fraction of the sample exceeds 70 percent.
 - (c) 5.0 grams per square meter per month in residential and commercial areas.
 - (d) 3.5 grams per square meter per month in residential and commercial areas if visual observations show the presence of wood waste or soot and the volatile fraction of the sample exceeds 70 percent.

Section 50-015 Suspended Particulate Matter

- (1) Concentrations of the fraction of suspended particulate that is equal to or less than 2.5 microns in aerodynamic diameter in ambient air as measured by an approved method must not exceed:
 - (a) 12 $\mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$ as a 3-year average of the annual arithmetic mean. This standard is attained when the annual arithmetic mean concentrations is equal to or less than 12 $\mu\text{g}/\text{m}^3$ as determined in accordance with appendix N of 40 CFR part 50.
 - (b) 35 $\mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$ as a 3-year average of annual 98th percentile 24-hour average values recorded at each monitoring site. This standard is attained when the 3-year average of annual 98th percentile 24-hour average concentrations is equal to or less than 35 $\mu\text{g}/\text{m}^3$ as determined in accordance with appendix N of 40 CFR part 50.
- (2) Concentrations of the fraction of suspended particulate matter that is equal to or less than ten microns in aerodynamic diameter in ambient air as measured by an approved method must not exceed:
 - (a) 150 $\mu\text{g}/\text{m}^3$ of PM_{10} as a 24-hour average concentration for any calendar day. This standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu\text{g}/\text{m}^3$, as determined in appendix K of 40 CFR part 50 is equal to or less than one at any site.

Section 50-025 Sulfur Dioxide

- (1) Concentrations of sulfur dioxide in ambient air as measured by an approved method for each averaging time must not exceed the following concentrations:
 - (a) Annual average: 0.02 ppm as an annual arithmetic mean for any calendar year at any site as measured by the reference method described in appendix A of 40 CFR part 50 or by an equivalent method designated in accordance with 40 CFR part 53.

- (b) 24-hour average: 0.10 ppm as a 24-hour average concentration more than once per year at any site as measured by the reference method described in appendix A of 40 CFR part 50 or by an equivalent method designated in accordance with 40 CFR part 53.
- (c) 3-hour average: 0.50 ppm as a 3-hour average concentration more than once per year at any site as measured by the reference method described in appendix A of 40 CFR part 50 or by an equivalent method designated in accordance with 40 CFR part 53.
- (d) 1-hour average: 0.075 ppm as a three-year average of the annual 99th percentile of the daily maximum 1-hour average concentration recorded at any monitoring site as determined by appendix T of 40 CFR part 50 as measured by a reference method based on appendix A or A-1 of 40 CFR part 50, or by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR part 53.

Section 50-030 Carbon Monoxide

- (1) For comparison to the standard, averaged ambient concentrations of carbon monoxide shall be rounded to the nearest integer in parts per million (ppm). Fractional parts of 0.5 or greater shall be rounded up. Concentrations of carbon monoxide as measured by an approved method, shall not exceed:
 - (a) 9 ppm as an 8-hour average concentration more than once per year at any site.
 - (b) 35 ppm as a 1-hour average concentration more than once per year at any site.

Section 50-035 Ozone

- (1) Concentrations of ozone in ambient air as measured by an approved method must not exceed 0.070 ppm as a daily maximum eight-hour average concentration. This standard is attained when, at any site the average of the annual fourth-highest daily maximum eight-hour average ozone concentration is equal to or less than 0.070 as determined by the method of appendix I, 40 CFR part 50.

Section 50-040 Nitrogen Dioxide

- (1) Concentrations of nitrogen dioxide as measured by a reference method based on appendix F of 40 CFR part 50 or by a Federal equivalent method (FEM) designated in accordance with 40 CFR part 53 must not exceed:
 - (a) 0.053 ppm as an annual average concentration for any calendar year at any site. The standard is met when the annual average concentration in a calendar year is less than or equal to 0.053 ppm, as determined in accordance with appendix S of 40 CFR part 50 for the annual standard.
 - (b) 0.100 ppm as a 3-year average of the annual 98th percentile of the 1-hour daily maximum concentrations recorded at any monitoring site. The standard is met when the three-year average of the annual 98th percentile of the daily maximum 1-hour average concentration is less than or equal to 0.100 ppm, as determined in accordance with appendix S of 40 CFR part 50 for the 1-hour standard.

- (c) 0.053 ppm as an annual arithmetic mean concentration as determined in accordance with appendix S of 40 CFR part 50. The secondary standard is attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up). To demonstrate attainment, an annual mean must be based upon hourly data that are at least 75 percent complete or upon data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.

Section 50-045 Lead

- (1) The concentration of lead and its compounds in ambient air must not exceed:
 - (a) 0.15 micrograms per cubic meter as a maximum arithmetic mean averaged over a calendar quarter, as measured by a reference method based on appendix G of 40 CFR part 50 or an equivalent method designated in accordance with 40 CFR part 53.
 - (b) The standard is met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with appendix R of 40 CFR part 50, is less than or equal to 0.15 micrograms per cubic meter.

Prevention of Significant Deterioration Increments

Section 50-050 General

- (1) The purpose of 50-050 through 50-060 is to implement a program to prevent significant deterioration of air quality in Lane County as required by the FCAA Amendments of 1977.
- (2) LRAPA will review the adequacy of the SIP on a periodic basis and within 60 days of such time as information becomes available that an applicable increment is being violated. Any SIP revision resulting from the reviews will be subject to the opportunity for public hearing in accordance with procedures established in the SIP.

Section 50-055 Ambient Air PSD Increments

- (1) This rule defines significant deterioration. In areas designated as Class I, II or III, emissions from new or modified sources must be limited such that aggregate increases in regulated pollutant concentration over the baseline concentration, as defined in 40-0020, are less than the PSD increments or maximum allowable increases set out in Table 1.
- (2) For any period other than an annual period, the applicable maximum allowable increase or PSD increment may be exceeded during one such period per year at any one location.

Table 1
Section 50-055
Maximum Allowable Increase

CLASS I	
<i>POLLUTANT</i>	<i>Micrograms per cubic meter</i>
Particulate Matter:	
PM ₁₀ , Annual arithmetic mean	4
PM ₁₀ , 24-hour maximum	8
PM _{2.5} , Annual arithmetic mean	1
PM _{2.5} , 24-hour maximum	2
Sulfur Dioxide:	
Annual arithmetic mean	2
24-hour maximum	5
3-hour maximum	25
Nitrogen Dioxide:	
Annual arithmetic mean	2.5
CLASS II	
<i>Pollutant</i>	<i>Micrograms per cubic meter</i>
Particulate Matter:	
PM ₁₀ , Annual arithmetic mean	17
PM ₁₀ , 24-hour maximum	30
PM _{2.5} , Annual arithmetic mean	4
PM _{2.5} , 24-hour maximum	9
Sulfur Dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512
Nitrogen Dioxide:	
Annual arithmetic mean	25
CLASS III	
<i>Pollutant</i>	<i>Micrograms per cubic meter</i>
Particulate Matter:	
PM ₁₀ , annual arithmetic mean	34

Table 1 Section 50-055 Maximum Allowable Increase	
PM ₁₀ , 24-hour maximum	60
PM _{2.5} , Annual arithmetic mean	8
PM _{2.5} , 24-hour maximum	18
Sulfur Dioxide: Annual arithmetic mean	40
24-hour maximum	182
3-hour maximum	700
Nitrogen Dioxide: Annual arithmetic mean	50

Section 50-060 Ambient Air Ceilings

- (1) No concentration of a pollutant may exceed:
 - (a) The concentration permitted under the national secondary ambient air quality standard;
 - (b) The concentration permitted under the national primary ambient air quality standard; or
 - (c) The concentration permitted under the state ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

Section 50-065 Ambient Air Quality Impact Levels for Maintenance Areas

- (1) The following ambient air quality impact levels apply to the areas specified for the purpose of the air quality analysis in 38-0060 and 38-0260, if required:
 - (a) In a carbon monoxide maintenance area, 0.5 mg/m³ (8 hour average) and 2 mg/m³ (1-hour average).
 - (b) In a PM₁₀ maintenance area:
 - (A) 120 ug/m³ (24-hour average) in the Eugene-Springfield PM₁₀ maintenance area.

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 51

AIR POLLUTION EMERGENCIES

Section 51-005 Introduction

51-005, 51-015, and OAR 340-206-0060 are effective within priority I and II air quality control regions (AQCR) as defined in 40 CFR part 51, subpart H (1995), when the AQCR contains a nonattainment area listed in 40 CFR part 81. All other rules in this title are equally applicable to all areas of the Lane County. Notwithstanding any other regulation or standard, this title is designed to prevent the excessive accumulation of air contaminants during periods of atmospheric stagnation or at any other time, which if allowed to continue to accumulate unchecked could result in concentrations of these contaminants reaching levels which could cause significant harm to the health of persons. This title establishes criteria for identifying and declaring air pollution episodes at levels below the level of significant harm and are adopted pursuant to the requirements of the FCAA as amended and 40 CFR part 51.151. Levels of significant harm for various regulated pollutants listed in 40 CFR part 51.151 are:

(1) For sulfur dioxide (SO₂)--1.0 ppm, 24-hour average.

(2) For particulate matter:

(a) PM₁₀--600 ug/m³, 24-hour average.

(b) PM_{2.5}--350.5 ug/m³, 24-hour average.

(3) For carbon monoxide (CO):

(a) 50 ppm, 8-hour average.

(b) 75 ppm, 4-hour average.

(c) 125 ppm, 1-hour average.

(4) For ozone (O₃)--0.6 ppm, 1-hour average.

(5) For nitrogen dioxide (NO₂):

(a) 2.0 ppm, 1-hour average

(b) 0.5 ppm, 24-hour average

Section 51-007 Definitions

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

Section 51-010 Episode Stage Criteria for Air Pollution Emergencies

Three stages of air pollution episode conditions and a pre-episode standby condition are established to inform the public of the general air pollution status and provide a management structure to require preplanned actions designed to prevent continued accumulation of regulated pollutants to the level of significant harm. The three episode stages are: Alert, Warning, and Emergency. LRAPA is responsible to enforce the provisions of this division which requires actions to reduce and control emissions during air pollution episode conditions. An air pollution alert or air pollution warning must be declared by the Director or appointed representative when the appropriate air pollution conditions are deemed to exist. When conditions exist which are appropriate to an air pollution emergency, LRAPA must notify the Governor and declare an air pollution emergency pursuant to ORS 468.115. The statement declaring an air pollution Alert, Warning or Emergency must define the area affected by the air pollution episode where corrective actions are required. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency must be deemed to exist whenever LRAPA determines that the accumulation of air contaminants in any place is increasing or has increased to levels which could, if such increases are sustained or exceeded, lead to a threat to the health of the public. In making this determination, LRAPA will be guided by the following criteria for each regulated pollutant and episode stage:

- (1) "Pre-episode standby" condition indicates that ambient levels of regulated pollutants are within standards or only moderately exceed standards. In this condition, there is no imminent danger of any ambient regulated pollutant concentrations reaching levels of significant harm. LRAPA must maintain at least a normal monitoring schedule but may conduct additional monitoring. An air stagnation advisory issued by the National Weather Service, an equivalent local forecast of air stagnation or observed ambient air levels in excess of ambient air standards may be used to indicate the need for increased sampling frequency. The pre-episode standby condition is the lowest possible air pollution episode condition and may not be terminated.
- (2) "Air pollution alert" condition indicates that air pollution levels are significantly above standards, but there is no immediate danger of reaching the level of significant harm. Monitoring must be intensified and readiness to implement abatement actions must be reviewed. At the air pollution alert level the public is to be kept informed of the air pollution conditions and of potential activities to be curtailed should it be necessary to declare a warning or higher condition. An air pollution alert condition is a state of readiness. When the conditions in both paragraphs (a) and (b) are met, an air pollution alert will be declared and all appropriate actions described in Table I shall be implemented.
 - (a) Meteorological dispersion conditions are not expected to improve during the next 24 hours;
 - (b) Monitored pollutant levels at any monitoring site exceed any of the following:
 - (A) Sulfur dioxide--0.3 ppm, 24-hour average;
 - (B) Particulate matter:

- (i) PM_{10} --350 micrograms per cubic meter (ug/m^3), 24-hour average;
 - (ii) $\text{PM}_{2.5}$ -- 140.5 micrograms per cubic meter (ug/m^3) -- 24-hour average;
 - (C) Carbon monoxide--15 ppm, 8-hour average;
 - (D) Ozone--0.2 ppm, 1-hour average;
 - (E) Nitrogen dioxide:
 - (i) 0.6 ppm, 1-hour average; or
 - (ii) 0.15 ppm, 24-hour average.
- (3) "Air pollution warning" condition indicates that pollution levels are very high and that abatement actions are necessary to prevent these levels from approaching the level of significant harm. At the air pollution warning level substantial restrictions may be required limiting motor vehicle use and industrial and commercial activities. When the conditions in both paragraphs (a) and (b) are met, an air pollution warning will be declared by LRAPA and all appropriate actions described in Table II shall be implemented:
- (a) Meteorological dispersion conditions are not expected to improve during the next 24 hours.
 - (b) Monitored regulated pollutant levels at any monitoring site exceed any of the following:
 - (A) Sulfur dioxide--0.6 ppm, 24-hour average;
 - (B) Particulate matter:
 - (i) PM_{10} --420 ug/m^3 , 24-hour average;
 - (ii) $\text{PM}_{2.5}$ -- 210.5 ug/m^3 , 24-hour average;
 - (C) Carbon monoxide--30 ppm, 8-hour average;
 - (D) Ozone--0.4 ppm, 1-hour average;
 - (E) Nitrogen dioxide:
 - (i) 1.2 ppm, 1-hour average; or
 - (ii) 0.3 ppm, 24-hour average.
- (4) "Air pollution emergency" condition indicates that regulated pollutants have reached an alarming level requiring the most stringent actions to prevent these levels from reaching the level of significant harm to the health of persons. At the air pollution emergency level, extreme measures may be necessary involving the closure of all manufacturing, business operations and vehicle traffic not directly related to emergency services. Pursuant to ORS

468.115, when the conditions in both paragraphs (a) and (b) are met, an air pollution emergency will be declared by LRAPA, and all the appropriate actions described in Table III must be implemented:

(a) Meteorological conditions are not expected to improve during the next 24 hours.

(b) Monitored pollutant levels at any monitoring site exceed any of the following:

(A) Sulfur dioxide--0.8 ppm, 24-hour average;

(B) Particulate matter:

(i) PM_{10} --500 $\mu\text{g}/\text{m}^3$, 2-hour average;

(ii) $PM_{2.5}$ -- 280.5 $\mu\text{g}/\text{m}^3$ -- 2-hour average;

(C) Carbon monoxide--40 ppm, 8-hour average;

(D) Ozone--0.5 ppm, 1-hour average;

(E) Nitrogen dioxide:

(i) 1.6 ppm, 1-hour average;

(ii) or 0.4 ppm, 24-hour average.

(5) "Termination"--Any air pollution episode condition (alert, warning or emergency) established by these criteria may be reduced to a lower stage when the elements required for establishing the higher conditions are no longer observed.

Section 51-011 Special Conditions

(1) LRAPA must issue an "ozone advisory" to the public when monitored ozone values at any site exceed the ambient air quality standard of 0.12 ppm but are less than 0.2 ppm for a one hour average. The ozone advisory must clearly identify the area where the ozone values have exceeded the ambient air standard and must state that significant health effects are not expected at these levels, however, sensitive individuals may be affected by some symptoms.

(2) Where particulate is primarily soil from windblown dust or fallout from volcanic activity, episodes dealing with such conditions must be treated differently than particulate episodes caused by other controllable sources. In making a declaration of air pollution alert, warning, or emergency for such particulate, LRAPA must be guided by the following criteria:

(a) "Air pollution alert for particulate from volcanic fallout or windblown dust" means particulate values are significantly above a standard but the source is a volcanic eruption or dust storm. In this condition there is no significant danger to public health but there may be a public nuisance created from the dusty conditions. It may be advisable under these circumstances to voluntarily restrict traffic volume and/or speed limits on major thoroughfares and institute cleanup procedures. LRAPA will declare an air pollution

alert for particulate from volcanic fallout or wind-blown dust when particulate values at any monitoring site exceed or are projected to exceed 800 ug/m^3 -- 24-hour average and the particulate is primarily from volcanic activity or dust storms, meteorological conditions notwithstanding;

- (b) "Air pollution warning for particulate from volcanic fallout or windblown dust" means particulate values are very high but the source is volcanic eruption or dust storm. Prolonged exposure over several days at or above these levels may produce respiratory distress in sensitive individuals. Under these conditions staggered work hours in metropolitan areas, mandated traffic reduction, speed limits and cleanup procedures may be required. LRAPA will declare an air pollution warning for particulate from volcanic fallout or wind-blown dust when particulate values at any monitoring site exceed or are expected to exceed $2,000 \text{ ug/m}^3$ -- 24-hour average and the particulate is primarily from volcanic activity or dust storms, meteorological conditions notwithstanding;
 - (c) "Air pollution emergency for particulate from volcanic fallout or windblown dust" means particulate values are extremely high but the source is volcanic eruption or dust storm. Prolonged exposure over several days at or above these levels may produce respiratory distress in a significant number of people. Under these conditions cleaning procedures must be accomplished before normal traffic can be permitted. An air pollution emergency for particulate from volcanic fallout or wind-blown dust will be declared by the Director, who must keep the Governor advised of the situation, when particulate values at any monitoring site exceed or are expected to exceed $5,000 \text{ ug/m}^3$ -- 24-hour average and the particulate is primarily from volcanic activity or dust storms, meteorological conditions notwithstanding.
- (3) Termination: Any air pollution condition for particulate established by these criteria may be reduced to a lower condition when the criteria for establishing the higher condition are no longer observed.
 - (4) Action: Municipal and county governments or other governmental agency having jurisdiction in areas affected by an air pollution alert, warning or emergency for particulate from volcanic fallout or windblown dust must place into effect the actions pertaining to such episodes which are described in 51-030.

Section 51-015 Source Emission Reduction Plans

Tables I, II and III set forth specific emission reduction measures which must be taken upon the declaration of an air pollution alert, air pollution warning, or air pollution emergency. Any person responsible for a source of air contamination within a Priority I AQCR must, upon declaration of an episode condition affecting the locality of the air contamination source, take all appropriate actions specified in the applicable table and must take all appropriate actions specified in an Agency-approved preplanned abatement strategy for such condition which has been submitted and is on file with LRAPA.

Section 51-020 Preplanned Abatement Strategies

- (1) Any person responsible for the operation of any point source of air pollution located in a Priority I AQCR, located within an AQMA or located within a nonattainment area listed

in 40 CFR, Part 81, and emits 100 tons or more of any regulated pollutant specified by paragraph (a) or (b) must file a Source Emission Reduction Plan (SERP) with LRAPA in accordance with the schedule described in subsection (4). Such plans must specify procedures to implement the actions required by Tables 1 through 3 and must be consistent with good engineering practice and safe operating procedures. Source emission reduction plans specified by this section are mandatory only for those sources which:

- (a) Emit 100 tons per year or more of any regulated pollutant for which the nonattainment area, AQMA, or any portion of the AQMA is designated nonattainment; or
 - (b) Emit 100 tons per year or more of volatile organic compounds when the nonattainment area, AQMA or any portion of the AQMA is designated nonattainment for ozone.
- (2) Municipal and county governments, or other governmental body, having jurisdiction in nonattainment areas where ambient levels of carbon monoxide, ozone or nitrogen dioxide qualify for Priority I AQCR classification, must cooperate with LRAPA in developing a traffic control plan to be implemented during air pollution episodes of motor vehicle related emissions. Such plans must implement the actions required by Tables 1 through 3 and must be consistent with good traffic management practice and public safety.
- (3) LRAPA must periodically review the source emission reduction plans to assure that they meet the requirements of this division. If deficiencies are found, LRAPA must notify the persons responsible for the source. Within 60 days of such notice the person responsible for the source must prepare a corrected plan for approval by LRAPA. Source emission reduction plans must not be effective until approved by LRAPA.
- (4) During an air pollution alert, warning or emergency episode, source emission reduction plans required by this rule must be available on the source premises for inspection by any person authorized to enforce the provisions of this title.

Section 51-025 Implementation

- (1) LRAPA and DEQ must cooperate to the fullest extent possible to insure uniformity of enforcement and administrative action necessary to implement this title. With the exception of sources of air contamination retained by DEQ, all persons within the territorial jurisdiction of LRAPA must submit source emission reduction plans prescribed in 51-020 to LRAPA. LRAPA must submit copies of approved source emission reduction plans to DEQ.
- (2) Declarations of air pollution alert, air pollution warning and air pollution emergency must be made by LRAPA. In the event conditions warrant and such declaration is not made by LRAPA, DEQ must issue the declaration and LRAPA must take appropriate remedial actions as set forth in this title.
- (3) Additional responsibilities of LRAPA include, but are not limited to:
- (a) Securing acceptable preplanned abatement strategies.
 - (b) Measurement and reporting of air quality data to DEQ.

- (c) Informing the public, news media and persons responsible for air contaminant sources of the various levels set forth in these rules and required actions to be taken to maintain air quality and the public health.
- (d) Surveillance and enforcement of emergency emission reductions plans.

TABLE I

AIR POLLUTION EPISODE, ALERT CONDITION

EMISSION REDUCTION PLAN

Part A--Pollution Episode Conditions for Carbon Monoxide or Ozone

For Alert conditions due to excessive levels of carbon monoxide or ozone, persons operating motor vehicles shall be requested to voluntarily curtail or eliminate all unnecessary operations within the designated Alert Episode area, and public transportation systems shall be requested to provide additional services in accordance with a preplanned strategy.

Part B--Pollution Episode Conditions for Particulate Matter

For Alert conditions resulting from excessive levels of particulate matter, the following measures shall be taken in the designated Alert Episode area:

1. There shall be no open burning by any person of any material.
2. Persons operating fuel burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon and 4 p.m.
3. Persons responsible for the operation of any source of air contaminants listed below shall take all required actions for the Alert level, in accordance with the preplanned strategy:

Sources of Air Contamination

Control Actions - Alert Level

(A) Coal, Oil or wood-fired electric generating facilities

(A) Utilization of fuels having low ash and sulfur content.

(B) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

(C) Diverting electric power generation to facilities outside of Alert Area.

(B) Coal, oil or wood-fired process steam generating facilities.

(A) Utilization of fuel having low ash and sulfur content.

(B) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

(C) Substantial reduction of steam load demands consistent with continuing plant operations.

- (C) Manufacturing industries of the following classifications:

Primary Metals Industries
Petroleum Refining
Chemical Industries
Mineral Processing Ind.
Grain Industries
Paper and Allied Products
Wood Processing Industry

- (A) Reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and all operations.
- (B) Reduction by deferring trade waste disposal operations which emit solid particle gas vapors or malodorous substances.
- (C) Reduction of heat load demands for processing.
- (D) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

TABLE II
AIR POLLUTION EPISODE, WARNING CONDITIONS
EMISSION REDUCTION PLAN

Part A--Pollution Episode Conditions for Carbon Monoxide or Ozone

For Warning conditions, resulting from excessive levels of carbon monoxide or ozone, the following measures shall be taken:

1. Operating of motor vehicles carrying fewer than three (3) persons shall be prohibited within designated Warning Episode areas during specified hours. Exceptions from this provision are:
 - A. Public transportation and emergency vehicles
 - B. Commercial vehicles
 - C. Through traffic remaining on Interstate or primary highways.
2. At the discretion of the Agency, operations of all private vehicles within designated areas or entry of vehicles into designated Warning Episode areas, may be prohibited for specified periods of time.
3. Public transportation operators shall, in accordance with a pre-planned strategy, provide the maximum possible additional service to minimize the public's inconvenience as a result of (1) or (2) above.
4. For ozone episodes the following additional measures shall be taken:
 - A. No bulk transfer of gasoline without vapor recovery from 2:00 a.m. to 2:00 p.m.
 - B. No service station pumping of gasoline from 2:00 a.m. to 2:00 p.m.
 - C. No operation of paper coating plants from 2:00 a.m. to 2:00 p.m.
 - D. No architectural painting or auto finishing;
 - E. No venting of dry cleaning solvents from 2:00 a.m. to 2:00 p.m. (except perchloroethylene).
5. Where appropriate for carbon monoxide episodes during the heating season, and where legal authority exists, governmental agencies shall prohibit all use of woodstoves and fireplaces for domestic space heating, except where such devices provide the sole source of heat.

Part B--Pollution Episode Conditions for Particulate Matter

For Warning conditions resulting from excessive levels of particulate matter, the following measures shall be taken:

1. There shall be no open burning by any person of any material.
2. The use of incinerators for the disposal of solid or liquid wastes shall be prohibited.
3. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon and 4 p.m.
4. Where legal authority exists, governmental agencies shall prohibit all use of woodstoves and fireplaces for domestic space heating, except where such devices provide the sole source of heat.
5. Persons responsible for the operation of any source of air contaminants listed below shall take all required actions for the Warning level, in accordance with a preplanned strategy:

Source of Air Contamination

Air Pollution Warning

(A) Coal, oil or wood-fired electric power generating facilities.

(A) Maximum utilization of fuels having lowest ash and sulfur content.

(B) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

(C) Diverting electric power generation to facilities outside of Warning Area.

(D) Prepare to use a plan of action if an Emergency Condition develops.

(E) Cease operation of facilities not related to safety or protection of equipment or delivery of priority power.

(B) Coal, oil or wood-fired process steam generating facilities

(A) Maximum utilization of fuels having the lowest ash and sulfur content.

(B) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

(C) Prepare to use a plan of action if an Emergency Condition develops.

(D) Cease operation of facilities not related to safety or protection of equipment or delivery of priority power.

- (C) Manufacturing industries which require considerable lead time for shut-down including the following classifications:

Petroleum Refining
Chemical Industries
Primary Metals Industries
Glass Industries
Paper and Allied Products

- (D) Manufacturing industries which require relatively short time for shut-down

(A) Reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardships by postponing production and allied operations.

(B) Reduction by deferring trade waste disposal operations which emit solid particles, gases, vapors or malodorous substances.

(C) Maximum reduction of heat load demands for processing.

(D) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence of boiler lancing or soot blowing.

(A) Elimination of air contaminants from manufacturing operations by ceasing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

(B) Elimination of air contaminants from trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances.

(C) Reduction of heat load demands for processing.

(D) Utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

TABLE III
AIR POLLUTION EPISODE, EMERGENCY CONDITIONS
EMISSION REDUCTION PLAN

1. There shall be no open burning by any person of any material.
2. The use of incinerators for the disposal of solid or liquid wastes shall be prohibited.
3. All places of employment, commerce, trade, public gatherings, government, industry, business, or manufacture shall immediately cease operation, except the following:
 - A. Police, fire, medical and other emergency services;
 - B. Utility and communication services;
 - C. Governmental functions necessary for civil control and safety;
 - D. Operations necessary to prevent injury to persons or serious damage to equipment or property;
 - E. Food stores, drug stores and operations necessary for their supply;
 - F. Operations necessary for evacuation of persons leaving the area;
 - G. Operations conducted in accordance with an approved preplanned emission reduction plan on file with the Agency.
4. All commercial and manufacturing establishments not included in these rules shall institute such actions as will result in maximum reduction of air contaminants from their operations which emit air contaminants, to the extent possible without causing injury or damage to equipment.
5. The use of motor vehicles is prohibited except for the exempted functions in 3, above.
6. Airports shall be closed to all except emergency air traffic.
7. Where legal authority exists, governmental agencies shall prohibit all use of woodstoves and fireplaces.
8. Any person responsible for the operation of a source of atmospheric contamination listed below shall take all required control actions for this Emergency Level.

Source of Air Contamination

(A) Coal, oil or wood-fired electric power generating facilities

(B) Coal, oil or wood-fired process steam generating facilities

(C) Manufacturing industries of following classifications:

Primary Metals Industry
Petroleum Refining Operations
Chemical Industries
Mineral Processing Industries
Paper and Allied Products
Grain Industry
Wood Processing Industry

Air Pollution Emergency

(A) Maximum utilization of fuels having lowest ash and sulfur content.

(B) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

(C) Diverting electric power generation to facilities outside of Emergency area.

(D) Cease operation of facilities not related to safety or protection of equipment or delivery of priority power.

(A) Reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.

(B) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

(C) Taking the action called for in the emergency plan.

(D) Cease operation of facilities not related to safety or protection of equipment or delivery of priority power.

(A) The elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

(B) Elimination of air contaminants from trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances.

(C) Maximum reduction of heat load demands for processing.

(D) Utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.