

# **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 sections 38-0010 through 38-0070 and sections 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 section 38-0070 if the owner or operator is first subject to section 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 sections 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 subsection 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 subsection 38-0245(2).
- (3) The owner or operator of a source subject to subsection (1) or (2) must apply this title 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 NOx, 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 sections 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 (sections 34-035 through 34-038), Air Contaminant Discharge Permits (ACDPs - title 37), Title V Operating Permits (OAR chapter 340, division 218), Highest and Best Practicable Treatment and Control Required (sections 32-005 through 32-009), Emission Standards for Hazardous Air Contaminants (title 44), and Standards of Performance for New Stationary Sources (title 46) and Stationary Source Plant Site Emission Limits (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 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<sub>2.5</sub>;
  - (b) May 1, 2011 for PM<sub>2.5</sub>; 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 are 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 subsection 42-0046(2); and
    - (ii) Any adjustments under subsection 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 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 paragraph 42-0046(3)(d) and subsection 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<sub>2.5</sub> 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<sub>2.5</sub> precursors also constitute major modifications for ozone and PM<sub>2.5</sub>, 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 (6) 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.

### **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 chapter 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 chapter 340, division 218, whichever is

applicable.

- (b) For Major NSR and Type A State NSR:
  - (A) Notwithstanding the requirements of subsection 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 12 months after receiving a complete application.
- (3) An owner or operator that obtained approval of a project under this title must obtain approval for a revision to the project according to the permit application requirements in this title and title 37 or OAR chapter 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 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 State NSR permit actions, LRAPA may grant for good cause one or 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 section 37-8020, Table 2, Part 4.
- (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 section 37-8020, Table 2, Part 4.
- (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 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 chapter 340, division 218, LRAPA Title V Operating Permits, are subject to the following:
- (a) Except as prohibited 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 (1) year from the date of initial startup of operation of the source

- subject to Major NSR or State NSR; 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 prohibits construction or a 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 (2) 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.

### **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.

### **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) Section 38-0070; and

- (2) Net Air Quality Benefit: Satisfy sections 38-0510 and 38-0520 for ozone sustainment areas or sections 38-0510 and subsections 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 subparagraph 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 subparagraph 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 subparagraph 38-0025(2)(a)(B) but that increased the potential to emit less than ten (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 five (5) years and that resulted in emission increases equal to or greater than ten (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 subsection 40-0050(4) and section 40-0070.
  - (b) Net Air Quality Benefit: The owner or operator of the source must satisfy sections 38-0510 and 38-0520 for ozone nonattainment areas or section 38-0510 and subsections 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 located 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<sub>x</sub>) 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 sections 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<sub>x</sub> 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 sections 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) Section 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 section 40-0050.

### **Section 38-0060 Requirements for Sources in Maintenance Areas**

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

- (1) Section 38-0070; and
- (2) Net Air Quality Benefit: The owner or operator of the source must satisfy one of the requirements listed below:
  - (a) Sections 38-0510 and 38-0520 for ozone maintenance areas or section 38-0510 and subsections 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 section 50-065 or OAR 340-202-0225 by performing the analysis specified in section 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<sub>x</sub>) 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 sections 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<sub>x</sub> 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 sections 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 subsection 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 section 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 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 PM<sub>10</sub>/PM<sub>2.5</sub> preconstruction monitoring is required by this section, at least four (4) months of data must be collected, including the season LRAPA judges to have the highest PM<sub>10</sub>/PM<sub>2.5</sub> levels. PM<sub>10</sub>/PM<sub>2.5</sub> 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 source 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 µg/m<sup>3</sup>, 8 hour average;
- (ii) Nitrogen dioxide; 14 µg/m<sup>3</sup>, annual average;
- (iii) PM<sub>10</sub>; 10 µg/m<sup>3</sup>, 24 hour average;
- (iv) PM<sub>2.5</sub>; 0 µg/m<sup>3</sup>, 24-hour average;
- (v) Sulfur dioxide; 13 µg/m<sup>3</sup>, 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 µg/m<sup>3</sup>, 24 hour average;
  - (viii) Fluorides; 0.25 µg/m<sup>3</sup>, 24 hour average;
  - (ix) Total reduced sulfur; 10 µg/m<sup>3</sup>, 1 hour average;
  - (x) Hydrogen sulfide; 0.04 µg/m<sup>3</sup>, 1 hour average;
  - (xi) Reduced sulfur compounds; 10 µg/m<sup>3</sup>, 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 subparagraph 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 subparagraph 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 section 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 subparagraph 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 subparagraph 38-0025(2)(a)(B), that is less than ten (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 five (5) years and that is equal to or greater than ten (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 must comply with sections 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 subsections 40-0050(4) and section 40-0070.
- (b) For increases of direct PM<sub>2.5</sub> or PM<sub>2.5</sub> precursors equal to or greater than the SERs, the owner or operator must provide an analysis of PM<sub>2.5</sub> air quality impacts based on all increases of direct PM<sub>2.5</sub> and PM<sub>2.5</sub> 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 subsection 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<sub>x</sub>) 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 sections 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<sub>x</sub> 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 sections 38-0510 and 38-0540 for designated areas other than ozone designated areas.

## **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 subsections 40-0050(1) and (2) and section 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<sub>2.5</sub> or PM<sub>2.5</sub> precursors equal to or greater than the SER, the owner or operator must provide an analysis of PM<sub>2.5</sub> air quality impacts based on all increases of direct PM<sub>2.5</sub> and PM<sub>2.5</sub> 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, sections 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, section 38-0510 and subsections 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, section 38-0510 and subsections 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 subsection 38-0070(2).
- (3) The owner or operator of a federal major source must comply with subsection 40-0050(4) and section 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 subsection 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<sub>x</sub>) 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 sections 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<sub>x</sub> 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 sections 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 subsection 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 subsection 40-0050(4) and section 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, sections 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, section 38-0510 and subsections 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, section 38-0510 and subsections 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<sub>x</sub>)

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 sections 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<sub>x</sub> 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 sections 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 section 38-0260 for each reattainment pollutant treating the reattainment pollutant as a maintenance pollutant for that rule, except that subparagraph 38-0260(2)(b)(C) and subsection (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 subsection 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 subsections 40-0050(1) and (2), and section 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<sub>2.5</sub> or PM<sub>2.5</sub> precursors equal to or greater than the SER, the owner or operator must provide an analysis of PM<sub>2.5</sub> air quality impacts based on all increases of direct PM<sub>2.5</sub> and PM<sub>2.5</sub> 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) Sections 38-0510 and 38-0520 for ozone maintenance areas or section 38-0510 and subsections 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 section 50-055 or OAR 340-202-0225 by performing the analysis specified in section 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 subsection 40-0050(4) and section 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 subsection 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<sub>x</sub>) 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 sections 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<sub>x</sub> 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 sections 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 the EQC and the Board adopts a revised maintenance plan and EPA approves it as a SIP revision.
- (a) The source must comply with the LAER requirement in subsection 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 subsections 40-0050(1) and (2) and section 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<sub>2.5</sub> or PM<sub>2.5</sub> precursors equal to or greater than the SER, the owner or operator of the source must provide an analysis of PM<sub>2.5</sub> air quality impacts based on all increases of direct PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors.
  - (c) The owner or operator of a federal major source must comply with subsection 40-0050(4) and section 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 subsection 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<sub>x</sub>) 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 sections 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<sub>x</sub> 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 sections 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**

Sections 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 located 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 PM<sub>10</sub> must be offset with particulate in the same size range.
- (3) Offsets for direct PM<sub>2.5</sub> may be obtained from NO<sub>2</sub> and SO<sub>2</sub> emissions as precursors to secondary PM<sub>2.5</sub>. The interpollutant trading ratios for these emissions will be approved by LRAPA on a case by case basis. Offsets for SO<sub>2</sub> and NO<sub>2</sub> emissions from direct PM<sub>2.5</sub> 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 subsection 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<sub>2.5</sub> 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, sections 42-0042, or 32-100, the owner or operator must comply with this section.

- (1) Offsets for VOC and NO<sub>x</sub> 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<sub>x</sub> 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 Impact 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<sub>x</sub> 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 (0) 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 minus (SD multiplied by 40/30)).
- (B) Contributing sources may provide offsets (PO) calculated as follows: PO = CQ minus (CD 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 subparagraphs (A), (B) and (C) of this subsection:
- (i) RO is the required offset of NO<sub>x</sub> 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 (0).
- (ii) SQ (source quantity) is the source's emissions increase of NO<sub>x</sub> 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 (0) 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 (0).
  - (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 subsection 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 (0).
- (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<sub>x</sub> in the designated area during high ozone conditions as the ratio described in subsection (3). The modeled reductions of ambient VOC or NO<sub>x</sub> 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<sub>x</sub> 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.

#### **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, sections 42-0042, or 32-100, 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 section 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 ten (10) percent 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).
  - (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) 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 ten (10) percent of the AAQS at all receptors within the designated area;
  - (c) The air quality analysis must comply with sections 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 subsection 38-0045(2);
      - (ii) A source impacting a nonattainment area must meet the requirements of paragraph 38-0050(2)(b);
      - (iii) A source impacting a reattainment area must meet the

- requirements of paragraph 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 subsection 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 paragraph 38-0245(1)(b);
- (ii) A source impacting a nonattainment area must meet the requirements of paragraph 38-0250(2)(b);
- (iii) A source impacting a reattainment area must meet the requirements of paragraph 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 paragraph 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 section 38-0070 or 38-0270, must comply with subsections 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.