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Division 245

CLEANER AIR OREGON

340-245-0005

Purpose and Overview

(1) The purpose of Oregon's risk-based air toxics permitting program, known as Cleaner Air Oregon, is to analyze and address public health risk from air toxics emissions from industrial and commercial sources. This program supplements requirements in division 244, Oregon Federal Hazardous Air Pollutant Program, and division 246, Oregon State Air Toxics Program. This program includes five levels of risk assessment that allow sources to use the least complex level of assessment possible to demonstrate compliance, and applies to whole facilities.

(2) The term "risk" refers to both of the following:

(a) A calculation of the probability of developing cancer from exposure to air toxics emissions from a specific emissions unit or a specific entire source. This risk is expressed in terms of 'X' in a million, and means there is a risk that there may be X additional cases of cancer in a population of one million people, over and above the background rate of cancer.

(b) A calculation of the likelihood of an adverse noncancer health effect from exposure to the air toxics emissions from an emissions unit or an entire source. This risk is expressed in terms of a Hazard Index of 'Y'. Below a Hazard Index of 1, adverse health effects are unlikely, and above a Hazard Index of 1, adverse health effects become more likely.

(3) This statement of purpose and overview is an aid to understanding the regulations in OAR 340-245-0010 through 340-245-8060 that follow, and is not for the purpose of regulation or compliance.

(a) OAR 340-245-0010, Applicability and Jurisdiction, through OAR 340-245-0020, Definitions and Abbreviations, describes which sources the risk-based air toxics permitting program applies to and specifies definitions to be used in the program.

(b) OAR 340-245-0030, Affected Sources and Requirements, specifies which sources are subject to the rules in this division, and which rules they must follow when making changes to their facilities. From this rule, sources are referred to OAR 340-245-0070, New or Modified Toxic Emissions Unit (TEU) Requirements, or OAR 340-245-0080, Source Risk Assessment, for the specific requirements they must meet.

(c) OAR 340-245-0040, Implementation, is the rule that explains how DEQ will begin implementing the Cleaner Air Oregon program. DEQ will apply the program first to Tier 1 sources and will report to EQC annually on the progress and results of implementing Tier 1. Implementation of Tier 1 will continue for five years or more; at the end of that time DEQ will continue to implement the program by applying it to Tier 2 sources.

(d) OAR 340-245-0050, Submittal Deadlines, provides the deadlines by which sources must submit Risk Assessment compliance information; sources are allowed more time to submit the more complex assessments.

(e) OAR 340-245-0060, Exempt TEUs and TEU Designation, contains the criteria for a Toxic Emission Unit to be designated exempt because it poses potentially very low risk. This rule also explains how TEUs should be designated in permit attachments to ensure compliance with all requirements.

(f) OAR 340-245-0070, New and Modified TEU Requirements, includes the requirements for approval of new or modified Toxics Emissions Units, including criteria for determining whether a TEU is categorically exempt or de minimis.

(g) OAR 340-245-0080, Source Risk Assessment, includes requirements and procedures for the four levels of risk assessment to determine whether an entire source is in compliance, or if it must have risk reduction requirements placed in its permit. The first level of risk assessment is relatively simple but is also likely to overestimate risk. As the levels progress from level two to four, the assessments become more complex but also provide increasingly more site-specific and refined estimates of risk.

(g) OAR 340-245-0090, Area Multi-Source Risk Determination, describes how DEQ will assess area risk from multiple sources to determine whether an area meets the Area Multi-Source Risk Action Level.

(h) OAR 340-245-0200, Modeling Requirements, contains air quality modeling requirements for owners or operators of sources that are required to perform modeling to assess risk.

(i) OAR 340-245-0210, Comprehensive Health Risk Assessment Procedure, contains the requirements that an owner or operator must use to perform the most complex risk assessment.

(j) OAR 340-245-0220, Risk Reduction Plan Requirements, specifies how an owner or operator must develop a plan to reduce risk if the source risk exceeds a Source Risk Action Level. Risk can be reduced using a variety of methods as long as they are enforceable as permit conditions and achieve the required level of risk reduction. This rule also specifies public engagement procedures that an owner or operator must follow when a Risk Reduction Plan is required.

(k) OAR 340-245-0230, Conditional Risk Levels, provides for setting a source-specific risk level if an owner or operator has done everything possible to reduce risk and still cannot meet Source Risk Action Levels. When a Conditional Risk Level is granted, the owner or operator must periodically review emission reduction methods to see if new methods become available.

(l) OAR 340-245-0240, Source Ambient Monitoring, allows an owner or operator to perform ambient monitoring to determine actual concentrations of air toxics in the ambient air around a source. Source ambient monitoring cannot be done in lieu of (i), (j) or (k) above.

(m) OAR 340-245-0250, Community Engagement Plan and Notice Requirements, contains procedures that owners or operators must use when the risk from their source is greater than the Source Risk Action Levels and they propose a Risk Reduction Plan or Conditional Risk Level.

(n) OAR 340-245-0300, Air Toxics Permit Attachment Procedures, includes the procedural requirements for obtaining a permit attachment. The Air Toxics Permit Attachment will be attached to the source's Air Contaminant Discharge Permits or Title V Operating Permits.

(o) OAR 340-245-0320, Calculations, explains how certain calculations required in the rules must be performed. This rule also explains how calculations should be rounded off to evaluate compliance with Risk Action Levels.

(p) OAR 340-245-0330, TBACT and Other Emission Reduction Methods, explains how a Toxics Best Available Control Technology analysis must be performed.

(q) OAR 340-245-0340, Emissions Inventory and Modeling Information, authorizes DEQ to require a source or sources to submit an inventory of all of their air toxics emissions.

(r) OAR 340-245-0400 through 340-245-0420, Risk-Based Concentration Hierarchy, Calculation of Risk-Based Concentrations and Process for Updating Lists of Regulated Air Toxics and Their Risk-Based Concentrations, describe how DEQ and OHA determined the Risk-Based Concentrations and how the RBCs may be updated.

(s) OAR 340-245-0500, Fees, specifies the permitting fees that apply for the Air Toxics Permit Attachments and fees for other activities that require review by DEQ or OHA.

(t) OAR 340-245-8000 through 340-245-8060, Tables, include tables that list the regulated air toxics and the values used to develop Risk-Based Concentrations.

340-245-0010

Applicability and Jurisdiction

(1) This division applies in all areas of the state and to all sources, excluding sources located on tribal and federal lands that are not subject to regulation by DEQ.

(2) DEQ will consult with OHA as necessary on the implementation of the rules in this division.

(3) Subject to the requirements in this division and OAR 340-200-0010(3), Lane Regional Air Protection Agency is designated by the EQC to implement the rules in this division within its area of jurisdiction.

(4) The Cleaner Air Oregon rules apply to entire sources as well as to individual Toxics Emissions Units (TEUs).

(5) The owner or operator of a source subject to this division may also be subject to other air quality rules including but not limited to those listed below, either in relation to its obligations under this division or independent of this division.

(a) OAR 340 division 209 Public Participation;

(b) OAR 340 division 210 Stationary Source Notification Requirements;

(c) OAR 340 division 212 Stationary Source Testing and Monitoring;

(d) OAR 340 division 214 Stationary Source Reporting Requirements;

(e) OAR 340 division 216, Air Contaminant Discharge Permits, including fees;

(f) OAR 340 division 218 Oregon Title V Operating Permits;

(g) OAR 340 division 220 Oregon Title V Operating Permit Fees;

(h) OAR 340 division 244 Oregon Federal Hazardous Air Pollutant Program; and

(i) OAR 340 division 246 Oregon State Air Toxics Program.

(6) Disclaimer

Compliance with this rule does not authorize the emission of any air toxic in violation of any other federal, state, or local law or regulation, or exempt the owner or operator from any other law or regulation.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0020

Definitions and Abbreviations

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

() “ABEL” means a computer model developed by EPA that evaluates a corporation's or partnership's ability to afford compliance costs, cleanup costs or civil penalties.
() “Acute” means evaluated over a 24-hour period.

() “AERMOD” means the EPA approved steady-state air dispersion model that is the primary model used for the analysis of ambient concentrations for regulatory compliance. AERMOD uses a fully developed set of meteorological and terrain data. AERMOD stands for American Meteorological Society/Environmental Protection Agency Regulatory Model.

() “AERSCREEN” is the EPA approved screening model based on AERMOD. The model uses conservative screening meteorology to produce estimates of "worst-case" concentration estimates that are equal to or greater than the estimates produced by AERMOD. AERSCREEN stands for American Meteorological Society/Environmental Protection Agency Regulatory Screening Model.

() “Air Toxics Permit Attachment” means written authorization issued under this division that contains applicable requirements for air toxics and is attached to an Air Contaminant Discharge Permit or a Title V Operating Permit.

() “Air Toxics” means the air pollutants listed in OAR 340-245-8020 Table 2 that are known to cause adverse health effects when present at high enough concentrations in ambient air and when people inhale them for a sufficient length of time with sufficient frequency.

() “Area of impact” means:

(a) For excess cancer risk, the area of impact is the geographic area encompassed by the isopleth whose value is equal to the applicable Risk Action Level, and the isopleth is generated by AERMOD or other comparable complex modeling approved by DEQ.

(b) For noncancer health risk, the area of impact is the geographic area encompassed by the isopleths whose values are equal to the applicable acute and chronic Risk Action Levels, as appropriate, and the isopleth is generated by AERMOD or other comparable complex modeling approved by DEQ.

() “Chronic” means evaluated over a 1-year period or more.

() “Cleaner Air Oregon rules” means OAR 340-245-0005 through 340-245-8060.

() “Conditional Risk Level” means a source level of risk that exceeds the applicable Source Risk Action Level and is determined on a case-by-case basis.

() “Construction permit” means a Construction ACDP under OAR chapter 340, division 216.

() “De minimis source” means a source whose excess cancer, chronic noncancer risk and acute noncancer risk estimates are each less than or equal to the Source De Minimis Level in OAR 340-245-8010 Table 1.

() “De minimis TEU” means a TEU whose excess cancer, chronic noncancer risk and acute noncancer risk estimates are each less than or equal to the TEU De Minimis Levels in OAR 340-245-8010 Table 1.

() “DEQ notice date” means the date that DEQ sends a notice to an owner or operator that a Source Risk Assessment is required.

() “Environmental Justice” has the meaning given by Oregon’s Environmental Justice Task Force, which defines Environmental Justice as equal protection from environmental and health hazards, and meaningful public participation in decisions that affect the environment in which people live, work, learn, practice spirituality, and play. Environmental Justice communities include minority and low-income communities, tribal communities, and other communities traditionally underrepresented in public process. Underrepresented communities may include those with significant populations of youth, the elderly, or those with physical or mental disabilities.

() “Excess cancer risk” means the probability of developing cancer from exposure to air toxics emissions, over and above the background rate of cancer.

() “Exempt source” means a source at which all TEUs are exempt TEUs.

() “Exempt TEU” means a TEU that is exempt from the requirements of this division under OAR 340-245-0060(1).

() “Existing source” means a source that:

(a) Did not require approval to construct under OAR 340 divisions 210 or 216 and began construction before <enter effective date of rules>; or

(b) Required approval to construct under OAR 340 divisions 210 or 216, and was approved or submitted all necessary applications for approval before <enter effective date of rules>.

() “Existing TEU” means a TEU that is in existence at the time an action subject to the Cleaner Air Oregon rules is taken, regardless of when the TEU was originally constructed.

() “Exposure location” means an actual location where a person or persons may be exposed to an air pollutant, and thus the location of the air quality modeling receptor at which concentrations and risk are evaluated by exposure type. Exposure locations may be subcategorized as follows:

(a) Chronic exposure locations, which include:

(A) Chronic exposure location is a place outside the boundary of a source being modeled that is evaluated with respect to the annual average concentration of a pollutant, including residential and non-residential exposure locations:

(i) Residential exposure location is a place outside the boundary of a source being modeled at which a person or persons may be present for most hours of each day over a period of many years; and

(ii) Nonresidential exposure location is a place outside the boundary of a source being modeled at which a person or persons may be present for a few hours several days per week, possibly over a period of several years;

(b) Acute exposure locations, which include:

(A) Chronic exposure locations; and

(B) A place outside the boundary of a source being modeled that is evaluated with respect to 24-hour average concentration of a pollutant. Acute exposure locations includes locations where a person may spend several hours of one day, such as but not limited to parks and sports facilities.

() "F1 Air Toxics Permit Attachment" means a permit attachment that is issued to a source whose risk at **<emission rate to be determined>** does not exceed any Source Risk Action Level.

() "F2 Air Toxics Permit Attachment" means a permit attachment that is issued to a source that is willing to accept a further limit on PTE to limit risk to no more than any Source Risk Action Level.

() "F3 Air Toxics Permit Attachment" means a permit attachment that is issued to a source who is required to implement a Risk Reduction Plan or requests a Conditional Risk Level.

() "Fixed capital cost" means the capital needed to provide all the depreciable components of a source.

() "Hazard Index" means a number equal to the sum of the hazard quotients attributable to air toxics that have noncancer effects on the same target organs or organ systems.

() "Hazard Quotient" means a calculated numerical value that is used to evaluate noncancer health risk from exposure to a single air toxic. The calculated numerical value is the ratio of the air concentration of an air toxic to its noncancer RBC. The RBC is typically the concentration causing no adverse health effects in humans.

() "INDIPAY" means a computer model developed by EPA that evaluates an individual's ability to afford compliance costs, cleanup costs or civil penalties.

() "Inhalation Unit Risk" means the upper-bound excess lifetime cancer risk estimated to result from continuous exposure to an agent at a concentration of 1 µg/m³ in air. The interpretation of inhalation unit risk would be as follows: if unit risk = 2×10^{-6} per µg/m³, 2 excess cancer cases (upper bound estimate) are expected to develop per 1,000,000 people if exposed daily for 70 years to 1 µg of the chemical per m³ of air.

() “Initial risk assessment” means the first risk analysis that an existing source is required to perform.

() “Multipathway” means consideration of exposure pathways in addition to inhalation of chemicals in air, such as incidental ingestion and dermal contact with air toxics migrating to soil and water.

() “MUNIPAY” means a computer model developed by EPA that evaluates a municipality's or regional utility's ability to afford compliance costs, cleanup costs or civil penalties

() “New or modified TEU” means that one of the following criteria is met for a TEU:

(a) Approval to construct or operate under OAR 340-210-0205 through 340-210-0250 was not required, and construction began on or after <enter effective date of rules>;

(b) Approval to construct or operate under OAR 340-210-0205 through 340-210-0250 is or was required, and the application was submitted on or after <enter effective date of rules>; or

(c) Approval to construct or operate under OAR 340-210-0205 through 340-210-0250 was required, but was not obtained as required, and construction began on or after the following, as applicable:

(A) For Type 1 changes, 10 days before <enter effective date of rules>;

(B) For Type 2 changes, 60 days before <enter effective date of rules>;

(C) For Type 3 changes, 120 days before <enter effective date of rules>;

(D) For Type 4 changes, 240 days before <enter effective date of rules>;

(d) With respect to a modification, approval to construct or operate refers to approval to construct or operate the modification.

() “New source” means a source that:

(a) Did not require approval to construct under OAR 340 divisions 210, 216 or 245, and began construction on or after <enter effective date of rules>; or

(b) Required approval to construct under OAR 340 divisions 210, 216 or 245, and submitted any of the necessary applications for approval on or after <enter effective date of rules>.

() “Nonresident” means persons who regularly spend time at a location but do not reside there. This includes but is not limited to children attending schools and daycare facilities, and adults at workplaces.

() “Operating permit” means a General, Basic, Simple or Standard ACDP under OAR 340 division 216 or an Oregon Title V Operating Permit under OAR 340 division 218.

() “Percentile low-income” means the percentile of a block group's population in households where the household income is less than or equal to twice the federal poverty level.

() “Percentile minority” means the percentile of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial.

() “Pollution Prevention” means any practice that reduces, eliminates, or prevents pollution at its source. Pollution prevention is also known as “source reduction.”

() “Proposed new source” means a source that an owner or operator proposes to construct, and that is described in subsection (a), (b) or (c):

(a) The source does not require approval to construct under OAR 340 divisions 210, 216 or 245 and begins construction on or after <enter effective date of rules>.

(b) The source is required to obtain approval to construct under OAR 340 divisions 210, 216 or 245, had not applied for all such approvals as of <enter effective date of rules>, and begins construction after obtaining all such approvals.

(c) The source is required to obtain approval to construct under OAR 340 divisions 210, 216 or 245, and began construction before obtaining all such approvals and on or after <enter effective date of rules>.

() “Reconstruction” means the replacement of components of an existing source to such an extent that 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 source.

() “Risk” means the chance of harmful effects to human health resulting from exposure to an air toxic. For the purpose of these rules, risk includes three types of risk: cancer, acute noncancer and chronic noncancer risk.

() “Risk Action Level” is the risk level in OAR 340-245-8010 Table 1 for a source or multiple sources, as indicated by the context in which the term is used.

() “Risk Assessment” means a procedure that identifies air toxic emissions from a source and calculates the health risk from those emissions. This term specifically refers to the procedures under OAR 340-245-0080(5) through (8).

() “Risk limit” means a limit in a permit or permit attachment that serves to limit the risk from a source or part of a source. Such limits may include, but are not limited to, limits on risk from the source or part of a source, limits on emissions of one or more air toxics, limits on emissions from one or more TEUs, or limits on source operation. A Source Risk Limit established under OAR 340-245-0310 is a risk limit.

() “Risk-Based Concentration” or “RBC” means the concentration of an air toxic listed in OAR 340-245-8050 Table 5 that results in an excess cancer risk of one in one million for chronic lifetime (70 years) residential exposure, or a noncancer hazard quotient of one for either chronic lifetime (70 years) residential exposure or acute 24-hour exposure.

() “Sensitive Population” means people with biological traits that may magnify the effect of pollutant exposures that include individuals undergoing rapid rates of physiological change, such as children, pregnant women and their fetuses, and individuals with impaired physiological conditions, such as elderly persons or persons with existing diseases such as heart disease or asthma. Other sensitive individuals include those with lower levels of protective biological mechanisms due to genetic factors, and those with increased exposure rates. For instance, children breathe at higher rates than adults and have greater hand-to-mouth activity.

() “Significant TEU” means a TEU that is not an exempt TEU or de minimis TEU.

() “Source Air Toxics Permit Attachment” means an Air Toxics Permit Attachment that addresses an entire source.

() “Source Risk Assessment” means an Air Toxics Risk Assessment for an entire source under OAR 340-245-0080(5) through (8).

() “Source risk” means the cumulative risk from all air toxics emitted by all significant TEUs at a source.

() “TEU Air Toxics Permit Attachment” means an Air Toxics Permit Attachment that addresses only individual TEUs and not the entire source.

() “Toxicity Reference Value” or “TRV” means the following:

() For carcinogens, the air concentration corresponding to a one in one million excess cancer risk, calculated by dividing 1 in 1 million (0.000001) by the Inhalation Unit Risk (IUR) specific to that air toxic as established by the authoritative body from which it was adopted.

() For noncarcinogens, the air concentration above which relevant effects might occur to humans following environmental exposure and below which it is reasonably expected that effects will not occur.
() "Toxics Best Available Control Technology" or "TBACT" means an emissions limit or emission control measure or measures for air toxics identified in, or determined using the procedures in, OAR 340-245-0330(2).
() "Toxics emissions unit" or "TEU" means any part or activity of a source that emits or has the potential to emit any air toxics. A toxics emissions unit does not necessarily emit air toxics, and includes a part or activity of a source that is an exempt TEU.

Abbreviations

() "ELAF" means early-life adjustment factor
() "HI" means hazard index.
() "IUR" means inhalation unit risk.
() "km" means kilometer.
() "MPAF" means multipathway adjustment factor.
() "NRAF" means nonresidential adjustment factor.
() "OHA" means Oregon Health Authority.
() "RBC" means Risk-Based Concentration.
() "RfC" means reference concentration.
() "TBACT" means Toxics Best Available Control Technology.
() "TEU" means toxics emissions unit.
() "TRV" means toxicity reference value
() "$\mu g/m^3$" means micrograms per cubic meter.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0030

Affected Sources and Requirements

(1) When a Risk Assessment is required under this rule, the Risk Assessment must consider only the air toxics listed in OAR 340-245-8050 Table 5.

(2) New or modified TEU. The owner or operator of a source that has previously been required under sections (3), (4) or (5) to perform a Risk Assessment under OAR 340-245-0080, and

proposes to construct a new or modified TEU must comply with OAR 340-245-0070 before beginning construction of the new or modified TEU.

(3) Existing source. When notified in writing by DEQ, the owner or operator of an existing source that is required to obtain an operating permit must comply with OAR 340-245-0080.

(4) New source. The owner or operator of a new source that is required to obtain a Simple, Standard or Construction ACDP must comply with OAR 340-245-0080 for the entire source before beginning construction of the proposed new source.

(5) Other sources. When notified in writing by DEQ, the owner or operator of a source that is not subject to sections (3) or (4) must comply with the Source Risk Assessment requirements in OAR 340-245-0080. DEQ may only notify such a source after determining through an investigation or file review that the source may emit air toxics in quantities that may cause the source's impact to exceed the Source De Minimis Risk Action Level in OAR 340-245-8010 Table 1.

(6) Reconstruction of a source. An existing source, upon reconstruction, becomes a new source and must comply with subsection (a) and OAR 340-245-0080 before beginning reconstruction.

(a) If the owner or operator of an existing source proposes to replace components, and 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 source, the owner or operator must notify DEQ of the proposed replacements. The notice must be postmarked 60 days (or as soon as practicable) before construction of the replacements is commenced and must include the following information:

(A) Name and address of the owner or operator;

(B) The location of the existing source;

(C) A brief description of the existing source and the components which are to be replaced;

(D) A description of the existing air pollution control equipment and the proposed air pollution control equipment;

(E) An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new source;

(F) The estimated life of the existing source after the replacements; and

(G) A discussion of any economic or technical limitations the source may have in complying with the requirements of OAR 340-245-0080 after the proposed replacements.

(b) DEQ will determine, within 90 days of the receipt of the notice required by subsection (a) and any additional information DEQ may reasonably require, whether the proposed replacement constitutes reconstruction.

(c) DEQ's determination under subsection (b) will be based on:

(A) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new source;

(B) The estimated life of the source after the replacements compared to the life of a comparable entirely new source;

(C) The extent to which the components being replaced cause or contribute to the emissions from the source; and

(D) Any economic or technical limitations on compliance with OAR 340-245-0080 which are inherent in the proposed replacements.

(7) TEUs that DEQ will not approve. Except for de minimis and exempt TEUs, DEQ will not approve a new or modified TEU if:

(a) The TEU does not comply with OAR 340-245-0070;

(b) The source does not comply with OAR 340-245-0080, if required;

(c) DEQ determines that the emissions from the TEU would result in an increase in risk at any exposure location that will exceed any of the Area Multi-Source Risk Action Levels in OAR 340-245-8010 Table 1; and

(d) The TEU is or will be located within 1.5 kilometers of an exposure location that already exceeds any of the Area Multi-Source Risk Action Levels in OAR 340-245-8010 Table 1, and the emissions from the TEU would increase the risk at such exposure location.

(8) Sources that DEQ will not approve. Except for de minimis and exempt sources, DEQ will not approve a new source if:

(a) The proposed new source does not comply with OAR 340-245-0080;

(b) DEQ determines that the emissions from the proposed new source would result in risk at any exposure location that will exceed any Permit Denial Risk Action Levels in OAR 340-245-8010 Table 1;

(c) The proposed new source:

(A) Will be located in an area that DEQ has identified as exceeding or potentially exceeding any of the Area Multi-Source Risk Action Levels in OAR 340-245-8010 Table 1;

(B) DEQ made such area risk identification before the proposed new source submitted a complete Air Toxics Permit Attachment application to DEQ; and

(C) DEQ determines under OAR 340-245-0090 that the emissions from the proposed new source will result in an increase in the same type of risk at any exposure location that does or will exceed an Area Multi-Source Risk Action Level in OAR 340-245-8010 Table 1; or

(d) The proposed new source is located within 1.5 kilometers of an exposure location that exceeds an Area Multi-Source Risk Action Level in OAR 340-245-8010 Table 1, and the emissions from the proposed new source would increase the same type of risk at such exposure location.

(9) DEQ will return all fees submitted under the Cleaner Air Oregon rules to DEQ from a source that is not approved under sections (7) or (8).

(10) Updated or corrected Risk Assessment.

(a) A Source Risk Assessment must be performed by the owner or operator of a source that wishes to increase risk over any Source Risk Limits established under OAR 340-245-0310.

(b) When notified in writing by DEQ, the owner or operator of any source that has previously performed a Source Risk Assessment under OAR 340-245-0080 must update or correct the previous Source Risk Assessment. DEQ may require the owner or operator to update or correct the previous Source Risk Assessment if:

(A) DEQ determines through an investigation or file review that a previous Source Risk Assessment may contain errors that could materially change the results or consequences of the Risk Assessment; or

(B) An RBC in OAR 340-245-8050 Table 5 has been added or lowered.

(c) The owner or operator that is required to update or correct a Source Risk Assessment under subsection (b) must submit the updated or corrected Risk Assessment to DEQ no more than 120 days after receipt of notification from DEQ that a Risk Assessment must be updated or corrected. Upon request by the owner or operator, DEQ may authorize the owner or operator an additional 60 days to submit the updated or corrected Risk Assessment, for good cause shown by the owner or operator.

(d) Any owner or operator who fails to submit any relevant information or who has submitted incorrect information in a Risk Assessment must promptly submit a corrected Risk Assessment upon becoming aware of such failure or incorrect submittal. This requirement is in addition to, and not in lieu of, a DEQ decision to commence an enforcement action against such owner or operator for such violation, as DEQ determines appropriate under the circumstances.

(e) Updating or correcting a Risk Assessment must be done in consultation with DEQ and must follow the applicable Risk Assessment requirements in OAR 340-245-0080.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155

Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0040

Implementation

(1) Tier 1.

The initial implementation phase includes individual sources identified under subsections (a) and (b), and the sources in an area under subsection (d).

(a) From <effective date of the rules> through <effective date of the rules + 5 years>, DEQ may notify no more than 80 individual permitted existing sources identified in paragraph (B) that they must conduct an initial risk assessment under OAR 340-245-0030(3).

(A) This limitation applies only to the total number of permitted existing sources notified under this subsection, except that additional sources may be notified when necessary under subsection (b) or OAR 340-245-0030(5).

(B) The permitted existing sources subject to this subsection are:

(i) Sources that have Title V permits;

(ii) Sources that have Standard and Simple ACDPs; and

(iii) Sources that have General ACDPs in category 21, Chrome plating and anodizing subject to a NESHAP under OAR chapter 340 division 244, or category 65, Plating and polishing operations subject to an area source NESHAP under OAR chapter 340 division 244.

(C) Initial ranked list. Except as provided in subsection (b), for the purpose of determining which permitted existing sources will be notified that they must conduct an initial risk assessment under subsection (a), DEQ must rank each permitted existing source, list the permitted existing sources from highest score to lowest score, and then must notify sources starting with the highest ranked source and proceeding in rank order down the list. DEQ must develop the ranked list of permitted existing sources as follows:

(i) DEQ must use the best emission inventory information available to DEQ at the time the list is created; and

(ii) For each source, DEQ must calculate a score which will determine the rank of the source in the list. DEQ must take into consideration the percentile ranking of risk, as calculated using a Level 1 Risk Assessment, and demographic statistics that include percentile ranking of the number of low income, minority, children under the age of 5 years old, and the total population resident within a one kilometer radius of the source. In each case, the percentile is calculated relative to the other sources being ranked.

(iii) The score will be calculated using the following equations:

$$Score = Risk^{0.75} \times \left(\frac{low\ income + minority + children < 5 + population}{4}\right)^{0.25}$$

$$Risk = \frac{\sum \frac{DF_a * emissions_{x,a}}{RBC_{x,cancer}}}{25} + \sum \frac{DF_a * emissions_{x,a}}{RBC_{x,chronic\ noncancer}} + \sum \frac{DF_d * emissions_{x,d}}{RBC_{x,acute\ noncancer}}$$

Where:

DF means dispersion factor

$\sum$ means to sum over all air toxics *x*

Subscripts

a means annual

d means daily

x refers to each air toxic emitted

(b) DEQ may add any source to Tier 1 if DEQ finds that the source should have been included in the initial ranked list based on new, updated or corrected information. If a source is added to Tier 1, none of the original Tier 1 sources will be removed from the list.

(c) If a source is not included in the initial ranked list of 80 sources or is not later added based on new, updated or corrected information, that source will not be subject to Cleaner Air Oregon until it is notified under Tier 2.

(d) From <effective date of the rules> through <effective date of the rules + 5 years>, DEQ may identify no more than one area for an area multi-source risk determination under OAR 340-245-0090 and will notify all existing permitted sources in the area that they must conduct a risk assessment under OAR 340-245-0030(3).

(A) Within such an identified area, DEQ may require that such risk assessments be done by sources that have any ranking or are unranked under subsection (a), including sources that are not required to have an air quality permit.

(B) For the purpose of determining the area for an area multi-source risk determination under OAR 340-245-0090, DEQ will identify areas in the state where multiple sources are located within close proximity to one another, and will rank the areas and conduct the area multi-source risk determination on the highest ranked area. DEQ must rank the areas taking into consideration the ranking of the individual sources under subsection (a).

(e) DEQ must report to the EQC with an evaluation of the progress and results of implementing the Cleaner Air Oregon rules. The evaluation should include, but is not limited to, the number of risk assessments performed and the results of those assessments, the number of sources whose risk is below Source Risk Action Levels, and the numbers of risk reductions and emissions controls implemented. DEQ must report to the EQC annually, at approximately 12 month intervals, for the first five years after <effective date of the rules>.

(2) Tier 2.

(a) On and after <effective date of the rules + 5 years> DEQ may fully implement the Cleaner Air Oregon rules.

(b) For the purpose of determining which permitted existing sources will be notified that they must conduct an initial risk assessment under OAR 340-245-0030(3), DEQ will expand the ranked list of permitted existing sources developed under section (1) to include all other sources in the state and then will continue to notify sources starting with the highest ranked source and will proceed in rank order down the list, as DEQ funding permits, omitting sources that were notified under section (1). DEQ will use the best emission inventory information available to DEQ at any time a ranked list is created or modified.

(c)(A) DEQ may identify any additional areas for an area multi-source risk determination under OAR 340-245-0090 and will notify all existing permitted sources in the area that they must conduct a risk assessment under OAR 340-245-0030(3). DEQ may also notify sources that have any ranking or are unranked under subsection (b), and sources that are not required to have an air quality permit.

(B) For the purpose of determining the areas for an area multi-source risk determination under OAR 340-245-0090, DEQ will follow the procedure under subsection (1)(d), except that DEQ must rank the areas taking into consideration the ranking of the individual sources under subsection (b).

(3) Applications for new sources and new and modified TEUs will be processed on an as received basis without regard to sections (1) or (2).

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0050

Submittal Deadlines

(1) From the date that DEQ sends a notice to the owner or operator that a Source Risk Assessment is required ("the DEQ notice date"), the owner or operator must complete the following specified tasks by the deadlines specified in sections (2) through (8), as applicable.

(2) For a Level 1 Risk Assessment under OAR 340-245-0080(5), the owner or operator must comply with the following deadlines:

(a) If the source is a de minimis source, the Level 1 Source Risk Assessment must be submitted to DEQ no later than 30 days after the DEQ notice date;

(b) If the source is not a de minimis source but the risk from the source at **<emission rate to be determined>** does not exceed any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1, the application for a permit attachment under OAR 340-245-0080(5)(c) must be submitted to DEQ no later than 30 days from the DEQ notice date; or

(c) If the source wishes to request one or more permit conditions to limit risk under OAR 340-245-0080(5)(d), the application for a permit attachment under OAR 340-245-0080(5)(d) must be submitted to DEQ no later than 30 days from the DEQ notice date.

(3) For a Level 2 Source Risk Assessment under OAR 340-245-0080(6), the following deadlines apply:

(a) If the source is a de minimis source, the Level 2 Source Risk Assessment must be submitted to DEQ no later than 60 days after the DEQ notice date;

(b) If the source is not a de minimis source but the risk from the source at **<emission rate to be determined>** does not exceed any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1, the application for a permit attachment under OAR 340-245-0080(6)(c) must be submitted to DEQ no later than 60 days from the DEQ notice date; or

(c) If the owner or operator wishes to request one or more permit conditions to limit risk under OAR 340-245-0080(6)(d), the application for a permit attachment under OAR 340-245-0080(6)(d) must be submitted to DEQ no later than 60 days from the DEQ notice date.

(4) For a Level 3 Source Risk Assessment under OAR 340-245-0080(7), the following time frames apply:

(a) If the source is a de minimis source, the Level 3 Source Risk Assessment must be submitted to DEQ no later than 180 days after the DEQ notice date;

(b) If the source is not a de minimis source but the risk from the source at **<emission rate to be determined>** does not exceed any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1, the application for a permit attachment under OAR 340-245-0080(7)(c) must be submitted to DEQ no later than 180 days from the DEQ notice date; or

(c) If the source wishes to request one or more permit conditions to limit risk under OAR 340-245-0080(7)(d), the application for a permit attachment under OAR 340-245-0080(7)(d) must be submitted to DEQ no later than 180 days from the DEQ notice date.

(5) For a Level 4 Source Risk Assessment under OAR 340-245-0080(8), the following time frames apply:

(a) If the source is a de minimis source, the Level 4 Source Risk Assessment must be submitted to DEQ no later than 270 days after the DEQ notice date;

(b) If the source is not a de minimis source but the risk from the source at **<emission rate to be determined>** does not exceed any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1, the application for a permit attachment under OAR 340-245-0080(8)(c) must be submitted to DEQ no later than 270 days from the DEQ notice date; or

(c) If the owner or operator wishes to request one or more permit conditions to limit risk under OAR 340-245-0080(8)(d), the application for a permit attachment under OAR 340-245-0080(8)(d) must be submitted to DEQ no later than 270 days from the DEQ notice date.

(6) If it is necessary for the owner or operator to request a Risk Reduction Plan under OAR 340-245-0080(1)(a)(B), then a Risk Reduction Plan and application for a permit attachment under OAR 340-245-0220 must be submitted to DEQ no later than 270 days from the DEQ notice date.

(7) If it is necessary for the owner or operator to request a Conditional Risk Level under OAR 340-245-0080(1)(a)(C), then a request for a Conditional Risk Level and application for a permit attachment under OAR 340-245-0230 must be submitted to DEQ no later than 270 days from the DEQ notice date.

(8) If it is necessary for the owner or operator to request a Risk Reduction Plan and Conditional Risk Level under OAR 340-245-0080(1)(a)(D), then a Risk Reduction Plan, request for a Conditional Risk Level and application for a permit attachment under OAR 340-245-0220 and 340-245-0230 must be submitted to DEQ no later than 270 days from the DEQ notice date.

(9) Upon request by an owner or operator, DEQ may grant a reasonable amount of additional time to complete any of the above tasks for good cause, such as, but not limited to: the inability of the owner or operator of the source to meet the allowable time despite making a good-faith effort to do so, or the need to conduct source testing to determine or confirm emissions or to make or revise the source's emissions inventory. It is the owner's or operator's burden to demonstrate to DEQ's satisfaction that good causes exists and good-faith efforts were made by the owner or operator of the source.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0060

Exempt TEUs and TEU Designation

The following provisions apply to this division only.

(1) Exempt TEUs.

A TEU is exempt if:

(a) The TEU is listed in the definition of categorically insignificant activity in OAR 340-200-0020, excluding subsection (a) of that definition; or

(b) The owner or operator of the TEU has demonstrated to DEQ's satisfaction that the emissions unit is not likely to emit air toxics. The demonstration may include any information the owner or operator considers relevant, including but not limited to:

(A) The chemical make-up of the materials handled or processed in the emissions unit; the type of handling or processing in the emissions unit, including whether or not the handling or processing is likely to alter the chemical make-up of the materials; and the chemical make-up or likely chemical make-up of the materials emitted by the emissions unit; and

(B) Any air toxics present in materials emitted are only trace contaminants that are not intentionally present in the materials handled, processed or produced in the TEU, and are present in such small amounts that they would typically not be listed in a Safety Data Sheet, product data sheet or equivalent document.

(2) TEUs must be designated in a way that is compatible with the following:

(a) Multiple similar pieces of equipment should not be grouped into a single TEU, but should instead be designated as individual TEUs;

(b) An individual emissions producing activity that exhausts through multiple stacks or openings must be designated as an individual TEU;

(c) TEUs may not be designated in such a way as to avoid the requirements of this division;

(d) Where multiple emissions-producing activities exhaust through a common opening, exhaust stack or emissions control device, each emissions producing activity may be considered a single TEU; and

(e) TEUs are not required to be the same as the emissions units listed in a source's operating or construction permit, but it is preferable that they be the same.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0070

New or Modified TEU Requirements

(1) When required under OAR 340-245-0030(2), the owner or operator of a proposed new or modified TEU must obtain approval from DEQ before beginning construction of the TEU.

(a) The owner or operator may request approval by following one of the procedures in sections (2) through (6).

(b) DEQ will not approve a new or modified TEU that is described in OAR 340-245-0030(7).

(c) The owner or operator may also be required to request approval of the new or modified TEU under OAR 340-210-0205 through 340-210-0250.

(2) Risk reduction.

(a) The owner or operator may request approval of a new TEU that replaces an existing TEU, or modification of an existing TEU, by:

(A) Demonstrating that the risk from the new or modified TEU for all air toxics listed in OAR 340-245-8050 Table 5 will be no more than the risk from the TEU being replaced or modified by using any of the methods in OAR 340-245-0080(5) through (8), except applying the methods to a TEU instead of a source; and

(B) Submitting a Risk Assessment Notification to DEQ, including all information necessary to demonstrate that the risk from the new or modified TEU meets the criteria in paragraph (A).

(b) The owner or operator may proceed with the construction or modification 10 days after DEQ receives the notification required in paragraph (a)(B) or on the date that DEQ approves the proposed construction in writing, whichever is sooner, unless DEQ notifies the owner or operator in writing that the proposed construction or modification is not approved or is not approvable under this subsection.

(3) Exempt TEU.

(a) The owner or operator may request approval by:

(A) Demonstrating that the new or modified TEU will be an exempt TEU under OAR 340-245-0060(1) when the new or modified TEU begins operating; and

(B) Submitting a Risk Assessment Notification to DEQ, including the demonstration that the TEU is an exempt TEU.

(b) The owner or operator may proceed with the construction or modification 10 days after DEQ receives the notification required in paragraph (a)(B) or on the date that DEQ approves the

proposed construction in writing, whichever is sooner, unless DEQ notifies the owner or operator in writing that the proposed construction or modification is not approved or is not approvable under this subsection.

(4) De minimis TEU.

(a) The owner or operator may request approval by:

(A) Demonstrating that the risk from the new or modified TEU for all air toxics listed in OAR 340-245-8050 Table 5 will be no more than the TEU De Minimis Level in OAR 340-245-8010 Table 1 when the new or modified TEU begins operating by using any of the methods in OAR 340-245-0080(5) through (8), except applying the methods to a TEU instead of a source; and

(B) Submitting a Risk Assessment Notification to DEQ, including all information necessary to verify that the risk from the new or modified TEU for all air toxics listed in OAR 340-245-8050 Table 5 is no more than the TEU De Minimis Level in OAR 340-245-8010 Table 1.

(b) The owner or operator may proceed with the construction or modification 10 days after DEQ receives the notification required in paragraph (a)(B) or on the date that DEQ approves the proposed construction in writing, whichever is sooner, unless DEQ notifies the owner or operator in writing that the proposed construction or modification is not approved or is not approvable under this subsection.

(5) Source Risk Assessment option 1.

(a) The owner or operator may request approval by:

(A) Demonstrating that the risk from the entire source, including the new or modified TEU, will not exceed the applicable Source Risk Action Level in OAR 340-245-8010 Table 1 or the source's Conditional Risk Level, if any, and complying with subsection (b);

(i) If modeling is required for the Source Risk Assessment, obtaining approval of a modeling protocol under OAR 340-245-0200.

(ii) If a Comprehensive Health Risk Assessment is required for the Risk Assessment, obtaining approval of a Comprehensive Health Risk Assessment work plan under OAR 340-245-0210.

(iii) Performing a Source Risk Assessment under OAR 340-245-0080(5), (6), (7) or (8).

(B) Submitting a Risk Assessment Notification to DEQ, including the following:

(i) A complete Risk Assessment, including modeling results or Comprehensive Health Risk Assessment if required for the level of Risk Assessment performed;

(ii) All applicable Risk Assessment fees under OAR 340-216-8030 Table 3, including the modeling review fee or Comprehensive Health Risk Analysis fee as applicable; and

(iii) Any information required under subsection (b).

(b) In the event that the source makes simultaneous changes to TEUs or processes other than the new or modified TEU for the purpose of reducing source risk, the owner or operator must comply with one of the following:

(A) All such changes must be identified and described, and must be completed on or before the date that the new or modified TEU begins operating; or

(B) All such changes must be identified and described, and the owner or operator:

(i) Must obtain a new or modified permit attachment with a compliance schedule for the completion of the necessary changes; and

(iii) Must complete all such changes within one year of beginning operation of the new or modified TEU.

(c) The owner or operator may proceed with the construction or modification upon receipt of written approval or a new or modified permit attachment, as applicable, from DEQ.

(6) Source Risk Assessment option 2.

(a) The owner or operator may request approval by including the new or modified TEU as part of a Source Risk Assessment under OAR 340-245-0080, which may include proposing a new or revised Risk Reduction Plan or Conditional Risk Level. Under this option the new or modified TEU will only be approved as part of the approval under OAR 340-245-0080.

(b) The owner or operator may proceed with the construction or modification upon receipt of written approval from DEQ.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0080

Source Risk Assessment

(1) When required under OAR 340-245-0030, or as allowed under OAR 340-245-0070(5) or (6), the owner or operator of a source must demonstrate compliance with this rule as specified below.

(a) For an existing source, the owner or operator must first attempt to demonstrate compliance with all applicable Source Risk Action Levels in OAR 340-245-8010 Table 1 following the procedure under paragraph (A). If the owner or operator is not able to demonstrate compliance under paragraph (A) with a Source Risk Action Level, then the owner or operator must comply with any of paragraphs (B), (C), (D) or (E) for that Source Risk Action Level. In addition to complying with paragraph (A), (B), (C), (D) or (E), the owner or operator may elect to perform ambient monitoring under paragraph (F).

(A) Risk Assessment. The owner or operator must either demonstrate that the source is an exempt source by following the procedure in section (4), or demonstrate that the source complies with the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1. The owner or operator:

(i) Must demonstrate compliance using any of the Level 1 through 4 Risk Assessment procedures in sections (5) through (8); and

(ii) Must follow the applicable calculation procedures under OAR 340-245-0320.

(B) Risk Reduction Plan. If the source is unable to comply with all Source Risk Action Levels in OAR 340-245-8010 Table 1 under paragraph (A), but the source will be able to comply with all Source Risk Action Levels in OAR 340-245-8010 Table 1 by making physical, operational or process changes to reduce risk, the owner or operator must:

(i) Complete a Level 3 or 4 Risk Assessment under section (7) or (8), respectively; and

(ii) Request a Risk Reduction Plan under OAR 340-245-0220 that leads to compliance with all Source Risk Action Levels.

(C) Conditional Risk Level. If the source is unable to comply with a Source Risk Action Level in OAR 340-245-8010 Table 1 under paragraph (A), and all significant TEUs that contribute to the exceedance of the Source Risk Action Level in OAR 340-245-8010 Table 1 meet TBACT under OAR 340-245-0330, the owner or operator must:

(i) Complete a Source Comprehensive Health Risk Assessment under OAR 340-245-0210; and

(ii) Request a Conditional Risk Level under OAR 340-245-0230 for each Source Risk Action Level that the source cannot comply with.

(D) Risk Reduction Plan and Conditional Risk Level. If the source is unable to comply with a Source Risk Action Level in OAR 340-245-8010 Table 1 under paragraph (A), and all significant TEUs that contribute to the exceedance of the Source Risk Action Level in OAR 340-245-8010 Table 1 do not meet TBACT, and the source will not be able to comply with the Source Risk Action Level in OAR 340-245-8010 Table 1 even after meeting TBACT under OAR 340-245-0330 for all significant TEUs that contribute to the exceedance of the Risk Action Level, the owner or operator must:

(i) Complete a Source Comprehensive Health Risk Assessment under OAR 340-245-0210; and

(ii) Request both a Risk Reduction Plan under OAR 340-245-0220 that will lead to meeting TBACT for all significant TEUs that contribute to the exceedance of the Source Risk Action Level in OAR 340-245-8010 Table 1 and a Conditional Risk Level under OAR 340-245-0230.

(E) Conditional Risk Level with postponement of risk reductions. If the source is unable to comply with a Source Risk Action Level in OAR 340-245-8010 Table 1 under paragraph (A), and the source is unable to comply by making physical, operational or process changes to reduce risk for financial reasons, the owner or operator must:

(i) Complete a Level 3 or 4 Risk Assessment under section (7) or (8), respectively; and

(ii) Request a Conditional Risk Level with postponement of risk reductions under OAR 340-245-0230.

(F) Source Ambient Monitoring. The owner or operator of a source may propose to perform ambient monitoring under OAR 340-245-0240 in order to collect information to help the source demonstrate that it is in compliance under subsection (A), (B), (C), (D) or (E).

(b) For a new source, the owner or operator must first attempt to demonstrate compliance under paragraph (A). If the owner or operator is not able to demonstrate compliance under paragraph (A), then the owner or operator must comply with paragraph (B). A permit will not be issued to a new source if any of the criteria included in OAR 340-245-0030(8) apply.

(A) Risk Assessment. The owner or operator must attempt to demonstrate that the source complies with the applicable Source Risk Action Level in OAR 340-245-8010 Table 1 by following the Level 1 through 4 Risk Assessment procedures in sections (5) through (8). The owner or operator:

(i) May demonstrate compliance using any of the Level 1 through 4 Risk Assessment procedures in sections (5) through (8); and

(ii) Must follow the applicable calculation procedures under OAR 340-245-0320 when following the Level 1 through 4 Risk Assessment procedures in sections (5) through (8).

(B) Conditional Risk Level. If the owner or operator is unable to demonstrate compliance with the Source Risk Action Level in OAR 340-245-8010 Table 1 under paragraph (A), the owner or operator must complete a Source Comprehensive Health Risk Assessment under OAR 340-245-0210 and request a Conditional Risk Level under OAR 340-245-0230. In addition to any other requirements under OAR 340-245-0230, DEQ will not approve a Conditional Risk Level under this paragraph unless all significant TEUs will meet TBACT before the source begins operating. A Source Comprehensive Health Risk Assessment completed under paragraph (A) may be used for this paragraph.

(c) Procedure.

(A) The owner or operator must:

(i) Determine which of the available compliance options under subsection (a) or (b) is appropriate for its source;

(ii) Must submit a Risk Assessment Notification or Air Toxics Permit Attachment application as specified in the rules for the selected compliance option; and

(iii) If applicable, submit written notification to DEQ that the source is unable to comply with the Risk Assessment option under paragraph (1)(a)(A) or (1)(b)(A) and identify which alternative compliance option the source will follow.

(B) The time allowed for submittal of the notification or application under paragraph (A) varies depending on the complexity of the compliance method the owner or operator will use to demonstrate compliance, and is specified in OAR 340-245-0050.

(d) DEQ may require an additional multipathway evaluation at any risk evaluation level if DEQ determines that airborne deposition of chemicals could be important for scenarios not included in the default multipathway adjustment factor assumptions, such as deposition to agricultural land, livestock grazing areas, drinking water reservoirs, or water bodies used for fishing.

(2) When a Risk Assessment for an entire source is required under this rule, the Risk Assessment must include all TEUs at the source or for which an application was submitted as of the date that the owner or operator submits an application required under this rule, except as allowed under section (3).

(3)(a) Exempt and de minimis TEUs. Except when required in sections (4) through (8), exempt TEUs and de minimis TEUs may be omitted from the Risk Assessment.

(b) Special treatment of natural gas and propane. Risk that results from air toxics emitted solely from the combustion of natural gas or propane must be reported in the Risk Assessment, but the risk from such air toxics may be treated as follows:

(A) At each exposure location, risk may be reported as two values:

(i) The risk from air toxics emitted solely from the combustion of natural gas or propane; and

(ii) The risk from all other air toxics emissions.

(B) At each exposure location the risk from air toxics emitted solely from the combustion of natural gas or propane may be excluded from the total risk for the purpose of determining compliance with any Source Risk Action Level or the applicability of a Modified Schedule Risk Action Level.

(C) The risk from air toxics emitted solely from the combustion of natural gas or propane may be omitted from a Risk Reduction Plan under OAR 340-245-0220 or a request for a Conditional Risk Level under OAR 340-245-0230.

(D) When natural gas or propane is combusted in the presence of materials that contain or may otherwise emit air toxics, any air toxics that are emitted from such materials are not subject to this subsection and must be included in a Risk Assessment. Materials that contain or may otherwise emit air toxics include but are not limited to VOCs combusted in thermal oxidizers and materials dried in direct-contact dryers.

(E) All calculations and determinations pertaining to this subsection must be reviewed and approved by DEQ.

(4) Exempt Source Determination. The owner or operator must follow the procedures in subsection (a) to be approved by DEQ as an exempt source.

(a) The owner or operator must:

(A) Submit documentation to DEQ to demonstrate to show that all TEUs at the source meet the criteria under OAR 340-245-0060(1); and

(B) Submit a Risk Assessment Notification to DEQ.

(b) Upon receipt of a submittal from an owner or operator under subsection (a), DEQ will:

(A) Review the submissions and, if approved, write a memo to the file summarizing the assessment that will be incorporated into the review report of a permitted source upon permit renewal; and

(B) Follow the Category I public notice procedure in OAR 340-209-0030; and

(C) Track exempt and de minimis sources in a database for the emissions inventory and future communication if RBCs change and emissions need to be reevaluated.

(5) Level 1 Source Risk Assessment.

The owner or operator must assess air toxics emissions by using the Level 1 Risk Assessment Tool in OAR 340-245-8060 Table 6 to determine air concentrations at the nearest chronic and acute exposure locations approved by DEQ and must either follow the procedures in subsection (a) to demonstrate that the source is a de minimis source, in subsection (b) to demonstrate that the risk from the source at **<emission rate to be determined>** does not exceed any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1, or in subsection (c) to request one or more permit conditions to limit risk to no more than any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1.

(a) Restrictions and Level 1 Risk Assessment Tool Usage Procedure.

(A) This method is applicable to point source emissions in flat terrain only. The method may not be appropriate for areas where terrain greater than the stack height lies within a distance of 10

times the stack height. Sources with multiple stacks must model stacks separately, or combine stack emissions into a single stack. All demonstrations using this method must be approved by DEQ. This method is not appropriate for fugitive emissions, such as might be characterized as a volume or area source, which must use AERSCREEN or AERMOD for their risk analysis.

(B) Directions for using the Level 1 Risk Assessment Tool are under OAR 340-245-0320(1).

(b) To be approved by DEQ as a de minimis source, the following procedure applies:

(A) The owner or operator must assess air toxics emissions at the capacity to emit of each TEU, including de minimis TEUs and, based on such assessment submit a Risk Assessment Notification to DEQ that demonstrates that the source is a de minimis source.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will follow the procedure under OAR 340-245-0080(4)(b).

DEQ has determined that additional input and evaluation are needed to determine the emission rates that will be used to calculate risk for comparison to Risk Action Levels. This is indicated by the inclusion of a placeholder of **<emission rate to be determined>** below.

(c) To demonstrate that risk at **<emission rate to be determined>** does not exceed any Source Risk Action Level, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions at **<emission rate to be determined>** of the source;

(ii) Submit an F1 Air Toxics Permit Attachment application to DEQ; and

(iii) Submit payment to DEQ of the applicable F1 Air Toxics Permit Attachment fee in OAR 340-216-8030 Table 3.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will:

(i) Propose to issue an F1 Air Toxics Permit Attachment; and

(ii) Determine whether to issue a final F1 Air Toxics Permit Attachment after following the Category II public notice procedure in OAR 340-209-0030.

(d) To request a PTE or risk limit based on this Level 1 Risk Assessment, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions taking the requested limit into account;

(ii) Submit an F2 Air Toxics Permit Attachment application and request one or more permit conditions that will limit risk to no more than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1; and

(iii) Submit payment to DEQ of the applicable F2 Air Toxics Permit Attachment fee in OAR 340-216-8030 Table 3.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will:

(i) Propose to issue an F2 Air Toxics Permit Attachment; and

(ii) Determine whether to issue a final F2 Air Toxics Permit Attachment after following the Category II public notice procedure in OAR 340-209-0030 for the Air Toxics Permit Attachment.

(6) Level 2 Source Risk Assessment.

The owner or operator must assess air toxics emissions by modeling emissions to determine air concentrations at exposure locations approved by DEQ using AERSCREEN or other screening model approved by DEQ and must either follow the procedures in subsection (a) to demonstrate that the source is a de minimis source, in subsection (b) to demonstrate that the risk from the source at **<emission rate to be determined>** does not exceed any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1, or in subsection (c) to request one or more permit conditions to limit risk to no more than any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1.

(a) To be approved by DEQ as a de minimis source, the following procedure applies:

(A) The owner or operator must assess air toxics emissions at the capacity to emit of each TEU, including de minimis TEUs and, based on such assessment, submit a Risk Assessment Notification to DEQ that demonstrates that the source is a de minimis source.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will follow the procedure under OAR 340-245-0080(4)(b).

DEQ has determined that additional input and evaluation are needed to determine the emission rates that will be used to calculate risk for comparison to Risk Action Levels. This is indicated by the inclusion of a placeholder of **<emission rate to be determined>** below.

(b) To demonstrate that risk at **<emission rate to be determined>** does not exceed any Source Risk Action Level, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions at **<emission rate to be determined>** of the source;

(ii) Submit an F1 Air Toxics Permit Attachment application to DEQ; and

(iii) Submit payment to DEQ of the applicable F1 Air Toxics Permit Attachment fee in OAR 340-216-8030 Table 3.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will:

(i) Propose to issue an F1 Air Toxics Permit Attachment; and

(ii) Determine whether to issue a final F1 Air Toxics Permit Attachment after following the Category II public notice procedure in OAR 340-209-0030.

(c) To request a PTE or risk limit based on this Level 2 Risk Assessment, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions taking the requested limit into account;

(ii) Submit an F2 Air Toxics Permit Attachment application and request one or more permit conditions that will limit risk to no more than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1; and

(iii) Submit payment to DEQ of the applicable F2 Air Toxics Permit Attachment fee in OAR 340-216-8030 Table 3.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will:

(i) Propose to issue an F2 Air Toxics Permit Attachment; and

(ii) Determine whether to issue a final F2 Air Toxics Permit Attachment after following the Category II public notice procedure in OAR 340-209-0030 for the Air Toxics Permit Attachment.

(7) Level 3 Source Risk Assessment.

The owner or operator must assess air toxics emissions by modeling emissions to determine air concentrations at exposure locations approved by DEQ using AERMOD or other complex model

approved by DEQ and must either follow the procedures in subsection (a) to demonstrate that the source is a de minimis source, in subsection (b) to demonstrate that the risk from the Source at **<emission rate to be determined>** does not exceed any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1, or in subsection (c) to request one or more permit conditions to limit risk to no more than any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1.

(a) To be approved by DEQ as a de minimis source, the following procedure applies:

(A) The owner or operator must assess air toxics emissions at the capacity to emit of each TEU, including de minimis TEUs and, based on such assessment, submit a Risk Assessment Notification to DEQ that demonstrates that the source is a de minimis source.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will follow the procedure under OAR 340-245-0080(4)(b).

DEQ has determined that additional input and evaluation are needed to determine the emission rates that will be used to calculate risk for comparison to Risk Action Levels. This is indicated by the inclusion of a placeholder of **<emission rate to be determined>** below.

(b) To demonstrate that risk at **<emission rate to be determined>** does not exceed any Source Risk Action Level, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions at **<emission rate to be determined>** of the source;

(ii) Submit an F1 Air Toxics Permit Attachment application;

(iii) Submit payment to DEQ of the applicable F1 Air Toxics Permit Attachment fee in OAR 340-216-8030 Table 3.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will:

(i) Propose to issue an F1 Air Toxics Permit Attachment; and

(ii) Determine whether to issue a final F1 Air Toxics Permit Attachment after following the Category III public notice procedure in OAR 340-209-0030.

(c) To request a PTE or risk limit based on this Level 3 Risk Assessment, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions taking the requested limit into account;

(ii) Submit an F2 Air Toxics Permit Attachment application and request one or more permit conditions that will limit risk to no more than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1; and

(iii) Submit payment to DEQ of the applicable F2 Air Toxics Permit Attachment fee in OAR 340-216-8030 Table 3.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will:

(i) Propose to issue an F2 Air Toxics Permit Attachment; and

(ii) Determine whether to issue a final F2 Air Toxics Permit Attachment after following the Category III public notice procedure in OAR 340-209-0030 for the Air Toxics Permit Attachment.

(8) Level 4 Source Risk Assessment.

The owner or operator must assess air toxics emissions by performing a Comprehensive Health Risk Assessment as specified in OAR 340-245-0210 and approved by DEQ and must either follow the procedures in subsection (a) to demonstrate that the source is a de minimis source, in subsection (b) to demonstrate that the risk from the Source at **<emission rate to be determined>** does not exceed any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1, or in subsection (c) to request one or more permit conditions to limit risk to no more than any of the applicable Source Risk Action Levels in OAR 340-245-8010 Table 1.

(a) To be approved by DEQ as a de minimis source, the following procedure applies:

(A) The owner or operator must assess air toxics emissions at the capacity to emit of each TEU, including de minimis TEUs and, based on such assessment, submit a Risk Assessment Notification to DEQ that demonstrates that the source is a de minimis source.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will follow the procedure under OAR 340-245-0080(4)(b).

DEQ has determined that additional input and evaluation are needed to determine the emission rates that will be used to calculate risk for comparison to Risk Action Levels. This is indicated by the inclusion of a placeholder of **<emission rate to be determined>** below.

(b) To demonstrate that risk at **<emission rate to be determined>** does not exceed any Source Risk Action Level, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions at **<emission rate to be determined>** of the source;

(ii) Submit an F1 Air Toxics Permit Attachment application; and

(iii) Submit payment to DEQ of the applicable F1 Air Toxics Permit Attachment fee in OAR 340-216-8030 Table 3.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will:

(i) Propose to issue an F1 Air Toxics Permit Attachment; and

(ii) Determine whether to issue a final F1 Air Toxics Permit Attachment after following the Category III public notice procedure in OAR 340-209-0030.

(c) To request a PTE or risk limit based on this Level 4 Risk Assessment, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions taking the requested limit into account;

(ii) Submit an F2 Air Toxics Permit Attachment application and request one or more permit conditions that will limit risk to no more than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1; and

(iii) Submit payment to DEQ of the applicable F2 Air Toxics Permit Attachment fee in OAR 340-216-8030 Table 3.

(B) Upon receipt of a submittal from an owner or operator under subsection (A), DEQ will:

(i) Propose to issue an F2 Air Toxics Permit Attachment; and

(ii) Determine whether to issue a final F2 Air Toxics Permit Attachment after following the Category III public notice procedure in OAR 340-209-0030.

(9) Recordkeeping. The owner or operator of a source that is subject to this rule must retain a record of any Risk Assessment for five years from the date the Risk Assessment is submitted to DEQ.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0090

Area Multi-Source Risk Determination

(1) DEQ may determine through modeling that the risk at any exposure location exceeds, or may exceed as a result of any air toxics emissions increases, any of the Area Multi-Source Risk Action Levels in OAR 340-245-8010 Table 1.

(2) For the purpose of this rule, modeling will be done as follows:

(a) DEQ will model emissions from sources that are subject to this division with the potential for cumulative concentrations because of their close proximity, including de minimis sources, but excluding exempt sources;

(b) DEQ will model emissions based on the best information available; and

(c) DEQ will model using AERMOD or another complex and detailed model that is generally equivalent to or more appropriate than AERMOD.

(3) If DEQ identifies exposure locations that have risk that exceeds, or may exceed, an Area Multi-Source Risk Action Level, then:

(a) DEQ will not approve or issue a permit for:

(A) Any new or modified TEU within the identified area, as specified in OAR 340-245-0030(7); or

(B) Any new source within the identified area, as specified in OAR 340-245-0030(8);

(b) De minimis sources will not be required to reduce risk;

(c) Any source that is on a Risk Reduction Plan will not be required to reduce risk more than is required under the Risk Reduction Plan; and

(d) Individual sources that receive a Conditional Risk Level will not be required to further reduce risk.

(4) If any exposure location exceeds the Area Multi-Source Risk Action Level, DEQ will hold a public meeting in the area to provide information regarding the area risk, and will provide a minimum of 30 days notice of the meeting.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0200

Modeling Requirements

(1) When this division requires the owner or operator of a source to perform modeling, the owner or operator must submit a modeling protocol to DEQ for approval. The modeling protocol must be approved by DEQ before the owner or operator may submit modeling results and the risk assessment based on that modeling.

(2) All modeled estimates of ambient concentrations required under this division 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)." 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 DEQ. AERSCREEN and AERMOD are examples of approved air quality models.

(3) Modeling will be based on **<emission rate to be determined>.**

(4) When a Level 2, 3 or 4 Risk Assessment under OAR 340-245-0080(6) through (8) is performed, the exposure locations where ambient concentrations will be modeled, including but not limited to residential areas, commercial areas, and public space, will be identified by the owner operator and approved by DEQ as part of the modeling protocol.

(5) The owner or operator must submit to DEQ all information necessary to perform any modeling required under this division. The information that is necessary will depend on the model being used and may include, but is not limited to:

(a) Emissions data for all existing and proposed emission points from the entire source or the new or modified TEU, as applicable. This data must represent maximum emissions for the averaging times;

(b) Stack parameter and building data, including stack height above ground, exit diameter, exit velocity, and exit temperature, for all existing and proposed emission points from the source, and dimension data of buildings that could potentially affect downwash; and

(c) The submittal of the air quality analysis and associated risk assessment must include the meteorological and topographical data, specific details of models used, and other information used to estimate air quality concentrations and risk at exposure locations.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0210

Comprehensive Health Risk Assessment Procedure

(1) When required to conduct a Comprehensive Health Risk Assessment, the owner or operator of a source must submit a Comprehensive Health Risk Assessment work plan to DEQ. The work plan must be developed in consultation with DEQ, and approved by DEQ before the owner or operator conducts the Comprehensive Health Risk Assessment.

(2) The Comprehensive Health Risk Assessment must be prepared following the procedures in the Air Toxics Risk Assessment Protocol developed by DEQ and consistent with the work plan approved by DEQ under section (1), and must include but is not limited to:

(a) Identifying information, including the owner or operator of the source, the owner's or operator's mailing address, the source address, the nature of business, name and phone number of the primary contact at the source, permit number, and SIC or NAICS code of the source;

(b) A conceptual site model identifying emission sources and existing and reasonably likely future human populations that may be exposed to air toxics emissions from the source, including residents, nonresident adults, and nonresident children and other sensitive populations;

(c) An exposure assessment that models or measures air toxics concentrations at locations of existing and reasonably likely future human populations that may be exposed to air toxics emissions from the source. Modifications to default exposure assumptions may be proposed, including but not limited to exposure times, frequencies, and durations, relative bioavailability of chemicals, and multipathway considerations for persistent, bioaccumulative and toxic chemicals, OAR 340-245-8040 Table 4;

(d) A toxicity assessment evaluating the carcinogenicity, noncarcinogenic chronic effects, and noncarcinogenic acute effects of air toxics to which human populations will be exposed, including quantifying noncarcinogenic effects separately for different organ systems, and determining persistence and bioaccumulation potential;

(e) A risk characterization presenting a quantitative evaluation of potential health risks associated with human exposure to emissions from the source; and

(f) A quantitative or qualitative uncertainty evaluation of appropriate elements of the risk assessment.

(3) The owner or operator must submit the completed Comprehensive Health Risk Assessment to DEQ for approval. The owner or operator must submit to DEQ at least two paper copies and one electronic copy of the Comprehensive Health Risk Assessment.

(4)(a) Within 30 days of DEQ's receipt of the Comprehensive Health Risk Assessment, DEQ will confirm receipt to the source by email and conduct an initial completeness review of the Comprehensive Health Risk Assessment.

(b) If DEQ has concluded that the Comprehensive Health Risk Assessment was complete, then DEQ will approve or reject the Comprehensive Health Risk Assessment and notify the owner or operator in writing. Approval or rejection will be based on whether:

(A) The Comprehensive Health Risk Assessment is prepared consistent with the most current version of DEQ's air toxics risk assessment protocol and the approved work plan; and

(B) The information provided is complete and accurate.

(c) DEQ may notify the owner or operator in writing if during the course of DEQ's review DEQ concludes that the submitted Comprehensive Health Risk Assessment is lacking information necessary to make an approval determination. The owner or operator must submit a revised complete Comprehensive Health Risk Assessment within 45 days of receipt of this notification.

(d) If DEQ determines that the resubmitted Comprehensive Health Risk Assessment does not meet the approval criteria in subsection (b), then DEQ may:

(A) Notify the owner or operator in writing that the Comprehensive Health Risk Assessment is disapproved; or

(B) Notify the owner or operator in writing that the Comprehensive Health Risk Assessment is insufficient and provide another opportunity to submit a revised complete Comprehensive Health Risk Assessment within 45 days of the date DEQ sent the written notification.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0220

Risk Reduction Plan Requirements

(1) The purpose of a Risk Reduction Plan is:

(a) To allow a source to achieve compliance with the Source Risk Action Level in OAR 340-245-8010 Table 1 within a reasonable, specified period of time; or

(b) If the source is not able to achieve compliance with the Source Risk Action Level in OAR 340-245-8010 Table 1, to allow a source to reduce risk as much as reasonably possible by meeting TBACT for all significant TEUs within a reasonable, specified period of time, provided the source also receives an approved Conditional Risk Level under OAR 340-245-0230.

(2) The owner or operator of a source that is requesting approval of a Risk Reduction Plan must submit to DEQ the following:

(a) An application for an F3 Air Toxics Permit Attachment;

(b) The proposed Risk Reduction Plan; and

(c) The fee specified in OAR 340-216-8030 Table 3 for a Risk Reduction Plan, except that if the owner or operator is required to request both a Risk Reduction Plan and Conditional Risk Level under OAR 340-245-0080(1)(a)(D), the owner or operator must submit only one application and the greater of the fees owed to submit either a Risk Reduction Plan or for a Conditional Risk Level under OAR 340-216-8030 Table 3.

(3) A proposed Risk Reduction Plan must include the following:

(a) Identifying information, including the owner or operator of the source, the owner's or operator's mailing address, the source address, the nature of business, name and phone number of the primary contact at the source, permit number, and SIC or NAICS code of the source;

(b) The results of a Source Risk Assessment performed under OAR 340-245-0080(7) or (8) including the estimated maximum risk before and after full implementation of the Risk Reduction Plan;

(c) Two air toxics emissions inventories:

(A) An emissions inventory for the source before implementation of the Risk Reduction Plan measures; and

(B) An emissions inventory for the source after implementation of proposed risk reduction measures;

(d) Identification of each TEU from which risk will be reduced;

(e) For each TEU identified in subsection (d), identify the proposed risk reduction measure, and if TBACT is proposed, provide the TBACT evaluation under OAR 340-245-0330. Pollution prevention measures that reduce or eliminate the air toxic at its source must be evaluated prior to other risk reduction measures;

(f) A schedule for implementing the specified risk reduction measures within the time frames allowed under section (7), if not sooner. The schedule must specify:

(A) The dates by which the source will implement the specified risk reduction measures;

(B) The dates for other increments of progress associated with implementation of the specified risk reduction measures such as but not limited to construction dates and equipment delivery dates; and

(C) The dates for submittal of applications for permits to construct or modify, not to exceed 90 days after approval of the Risk Reduction Plan, or other time period approved by DEQ;

(g) If requesting a time extension allowed under section (7), information required to demonstrate that there is good cause for the request and the length of time requested;

(h) A proposed Community Engagement Plan that meets the requirements of OAR 340-245-0250; and

(i) Certification of the Risk Reduction Plan as meeting all requirements by an individual who is officially responsible for the processes and operations of the source.

(4) Procedural requirements for a Risk Reduction Plan.

(a) No more than 30 days following submittal of a complete Risk Reduction Plan application, the owner or operator must hold a community engagement meeting to present and receive comments on the proposed Risk Reduction Plan.

(A) The meeting must meet the requirements in OAR 340-245-0250(2);

(B) The owner or operator must provide public notice of the meeting at least 14 days before the meeting date. The public notification must, at a minimum, meet the requirements of OAR 340-245-0250(3) and include the Risk Reduction Plan and the application. The public notice may include notice of a second community engagement meeting required under subsection (c), provided that the public notice requirement under paragraph (c)(B) for the second meeting is also met; and

(C) DEQ staff will attend and participate if staffing levels allow it.

(b) Following the community engagement meeting required under subsection (a), the owner or operator may revise the Risk Reduction Plan.

(c) No less than 21 days but no more than 35 days following the first community engagement meeting required under subsection (a), the owner or operator must hold a second community engagement meeting to present and explain any proposed revisions to, or reasons for not revising, the Risk Reduction Plan, and to receive public comments;

(A) The second meeting must meet the requirements in OAR 340-245-0250(2);

(B) The owner or operator must provide public notice of the second meeting at least 14 days before the meeting date. The public notification must, at a minimum, meet the requirements of OAR 340-245-0250(3); and

(C) DEQ staff will attend and participate if staffing levels allow it.

(d) Following the second community engagement meeting required under subsection (c) the owner or operator:

(A) May further revise the Risk Reduction Plan; and

(B) Must submit a final Risk Reduction Plan to DEQ no more than 14 days after the second community engagement meeting required under subsection (c).

(e) No more than 14 days after the second community engagement meeting, the owner or operator must submit to DEQ a meeting summary report that contains the following information regarding each of the two community engagement meetings:

(A) A list of all persons, groups or entities notified by the owner or operator;

(B) A description of how each was notified;

(C) The number of attendees at the meeting;

(D) A summary of the owner or operator's presentation;

(E) A summary of questions and comments from the participants at the meeting along with responses provided by the owner or operator; and

(F) A brief description of any changes the owner or operator made to the Risk Reduction Plan after each meeting, if any.

(5) Approval of Risk Reduction Plan.

(a) DEQ will propose approval of a Risk Reduction Plan if the application submitted under section (2) demonstrates compliance with the requirements described in section (3). DEQ will identify deficiencies that the owner or operator must correct.

(b) If DEQ proposes approval of the Risk Reduction Plan, DEQ will prepare a draft Air Toxics Permit Attachment. The draft Air Toxics Permit Attachment will include a compliance schedule to implement the Risk Reduction Plan.

(c) DEQ will provide a copy of the draft F3Air Toxics Permit Attachment to the owner or operator and will provide the owner or operator at least 7 days to review and provide feedback to DEQ regarding the draft Air Toxics Permit Attachment before placing it on public notice.

(d) Following consideration of comments from the owner or operator, DEQ may revise the proposed Risk Reduction Plan and the draft Air Toxics Permit Attachment.

(e) When DEQ has completed such revisions, if any, then DEQ will:

(A) Issue the proposed Air Toxics Permit Attachment for public comment and provide a minimum of 40 days public notice for the public to submit written comments to DEQ; and

(B) 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.

(f) DEQ must consider the public comments it receives under subsection (e) and then will determine whether to issue a final Air Toxics Permit Attachment.

(g) DEQ will approve a Risk Reduction Plan by its issuance of a final Air Toxics Permit Attachment that includes enforceable permit conditions and compliance schedules as necessary to achieve the risk reductions in the final Risk Reduction Plan.

(6) Distribution of Risk Reduction Plan

Following DEQ's issuance of the final Air Toxics Permit Attachment, the owner or operator must:

(a) Distribute the updated Risk Assessment, Risk Reduction Plan and the Air Toxics Permit Attachment in hardcopy or electronic format within 30 days of permit attachment issuance to all of the locations identified below within the area of impact approved by DEQ.

(A) Official neighborhood associations;

(B) Schools;

(C) Daycare centers;

(D) Community groups and sensitive populations, including but not limited to hospitals, nursing homes, and long-term care facilities; and

(E) Local elected officials, local Indian governing bodies, and state and federal agencies that have jurisdiction in the area of impact; and

(b) Submit written notification to DEQ within 45 days of the Air Toxics Permit Attachment issuance that the updated Risk Assessment, Risk Reduction Plan and the Air Toxics Permit Attachment have been distributed as required under subsection (a).

(7) Risk Reduction Plan Implementation Requirements.

(a) The owner or operator must implement risk reduction measures in an approved Risk Reduction Plan by the dates specified in the Risk Reduction Plan for each risk reduction measure. The time allowed to fully implement a Risk Reduction Plan is specified in subsections (b) and (c), as applicable:

(b) An owner or operator whose source risk at the time of initial Risk Reduction Plan approval is less than the applicable Modified Schedule Risk Action Level in OAR 340-245-8010 Table 1 must fully implement its Risk Reduction Plan within two years from the initial Risk Reduction Plan approval date and:

(A) With DEQ's prior written approval, the owner or operator may be allowed additional time extensions with a showing of good cause in increments of up to two additional years each to implement risk reduction measures and achieve required risk reductions; and

(B) Any extension requested by the owner or operator beyond the first two year extension is subject to DEQ's prior approval following a mandatory public hearing before going into effect.

The time for, and expenses of performing source ambient monitoring will not be considered in any request for time extensions under this subparagraph.

(c) An owner or operator whose source risk at the time of initial Risk Reduction Plan approval is greater than or equal to the applicable Modified Schedule Risk Action Level in OAR 340-245-8010 Table 1 must implement its Risk Reduction Plan as follows:

(A) Within one year from the initial Risk Reduction Plan approval date, the owner or operator must reduce risk to less than the applicable Modified Schedule Risk Action Level in OAR 340-245-8010 Table 1;

(i) With DEQ's prior written approval, the owner or operator may be allowed a maximum of two additional time extensions in increments of up to one additional year each to implement risk reduction measures and achieve required risk reductions; and

(ii) Any extension requested by the owner or operator beyond the first 1-year extension is subject to DEQ's prior written approval following a mandatory public hearing before going into effect. The time for and expenses of performing source ambient monitoring will not be considered in any request for time extensions under this subparagraph.

(B) After reducing source risk below the Modified Schedule Risk Action Level, the owner or operator may be allowed up to one more year to reduce risk to no more than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1, if possible, or to meet TBACT for all significant TEUs, and:

(i) With DEQ's prior written approval, the owner or operator may be allowed additional time extensions with a showing of good cause in increments of up to one additional year each to implement risk reduction measures and achieve required risk reductions; and

(ii) Any extension requested by the owner or operator beyond the first one-year extension allowable under subparagraph (i) is subject to DEQ's prior written approval following a mandatory public hearing before going into effect.

(d) The owner or operator must submit semi-annual progress report(s) to DEQ describing the emissions and risk reductions achieved by the Risk Reduction Plan to date. The progress report(s) are due to DEQ on or before February 15 and July 31 of each year the Risk Reduction Plan is in effect, or other dates approved in the Air Toxics Permit Attachment. The progress reports must include at a minimum all of the following:

(A) The increments of progress achieved in implementing the risk reduction measures specified in the Risk Reduction Plan;

(B) A schedule indicating dates for future increments of progress;

(C) Identification of any increments of progress that have been or will be achieved later than specified in the Risk Reduction Plan and the reason for achieving the increments late;

(D) A description of any increases or decreases in emissions of air toxics that have occurred at the source since approval of the Risk Reduction Plan;

(E) An estimate of when all Risk Reduction Plan elements will be completed; and

(F) Dates for demonstrating the effectiveness of risk reduction measures.

(e) The owner or operator must schedule and hold an annual community engagement meeting once each year that the Risk Reduction Plan is in effect by a date specified in the permit attachment to present and receive comments on the most recent progress report;

(A) The meeting must meet the requirements in OAR 340-245-0250(2); and

(B) Public notice of the meeting must be given at least 14 days before the meeting date and must, at a minimum, meet the requirements of OAR 340-245-0250(3).

(f) Within 30 days after each annual meeting required under subsection (e), the owner or operator must submit a meeting summary report to DEQ that contains the following:

(A) A list of all persons, groups or entities notified by the owner or operator;

(B) A description of how each was notified;

(C) The number of attendees at the meeting;

(D) A summary of the owner or operator's presentation; and

(E) A summary of questions and comments from the participants at the meeting along with responses provided by the owner or operator.

(F) A brief description of the owner's or operator's proposed changes to the Risk Reduction Plan after the meeting, if any.

(g) The owner or operator must submit a Risk Reduction Plan completion report to DEQ no more than 60 days after completing all Risk Reduction Plan requirements that includes;

(A) The final increments of progress achieved in fully implementing the risk reduction measures specified in the Risk Reduction Plan;

(B) The date the final increments of progress were achieved;

(C) The results of the demonstration of the effectiveness of the risk reduction measures; and

(D) The remaining source risk after completion of all risk reduction measures; and

(h) No more than 60 days after completing all Risk Reduction Plan requirements, the owner or operator must provide public notification that the Risk Reduction Plan has been completed. The public notification must meet the requirements in OAR 340-245-0250(3).

(i) Each time an additional time extension is requested, a request to revise the Risk Reduction Plan and Air Toxics Permit Attachment must be submitted as required under section (8) and the public notice procedures in subsection (5)(e) must be followed prior to DEQ's approval of the request.

(j) Risk reduction measures implemented in order to comply with other regulatory requirements are acceptable risk reduction measures for the purposes of this rule, provided they are consistent with the requirements of this rule.

(8) Updates and Modification of Risk Reduction Plans.

(a) The owner or operator must update or revise a Risk Reduction Plan if:

(A) The owner or operator is referred to this section by another rule in this division;

(B) The owner or operator requests a change to the Risk Reduction Plan including extension requests;

(C) The owner or operator requests a change to a condition in an Air Toxics Permit Attachment that would increase the source's risk level; or

(D) Information becomes known to DEQ, or changes are made to RBCs after the last submitted Risk Reduction Plan, that would substantially impact risks to exposed persons, implementation, or effectiveness of the Risk Reduction Plan, and DEQ notifies the owner or operator that the Risk Reduction Plan must be updated and resubmitted.

(b) If an owner or operator must update or modify a Risk Reduction Plan under subsection (a), then the owner or operator must submit an application for a modification of the Air Toxics Permit Attachment under OAR 340-245-0300(11) no more than 45 days from the date notice was received or it was determined that an update is required under subsection (a) that includes:

(A) A description of all proposed changes to the Risk Reduction Plan;

(B) A demonstration that the changes are necessary and comply with these rules; and

(C) A copy of the proposed revised Risk Reduction Plan.

(c) To request an extension to a compliance date in a Risk Reduction Plan or Air Toxics Permit Attachment, the owner or operator must submit the application at least 180 days before the compliance date specified in the current Risk Reduction Plan or Air Toxics Permit Attachment.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155

Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0230

Conditional Risk Level Requirements

(1) The purpose of a Conditional Risk Level is to conditionally approve construction or operation of a source that is unable to comply with the Source Risk Action Level. To be granted a Conditional Risk Level, this rule requires a source to reduce risk or be on a schedule to reduce risk as much as reasonably possible. Until a source achieves compliance with the Source Risk Action Level, this rule requires periodic TBACT reviews to determine if new emission control measures become available, and, if so, then DEQ may require the owner or operator to update the source's emissions control systems.

(2) A Conditional Risk Level is a level of risk that applies to an entire source that exceeds a Source Risk Action Level in OAR 340-245-8010 Table 1. A Conditional Risk Level:

(a) Must be determined on a case-by-case basis using the Level 5 Source Risk Assessment procedure in OAR 340-245-0080(8); and

(b) Must be set at the lowest reasonable level taking into consideration factors such as, but not limited to, the source's current TEUs, any future TEUs that have been approved by DEQ, current or anticipated future operations, <**emission rate to be determined**>, or new PTE or risk-limiting conditions proposed by the owner or operator.

(3) DEQ may grant a Conditional Risk Level only to owners or operators of sources that:

(a) Are unable to demonstrate compliance with OAR 340-245-0080(5) through (8); and

(b)(A) Demonstrate to DEQ's satisfaction that they meet or will be able to meet TBACT for all significant TEUs at the source under OAR 340-245-0330; or

(B) Are granted a postponement of risk reductions for one or more significant TEUs under section (4).

(4) Postponement or continuation of postponement of risk reductions.

(a) An owner or operator requesting the initial or continued postponement of the requirement to meet TBACT or make other physical, operational or process changes to reduce risk for one or more significant TEUs must submit a request to DEQ that includes the following:

(A) The reason or reasons why the postponement or continuation of the postponement is being requested;

(B) The TEUs for which the postponement is being requested;

(C) A determination of:

(i) The TBACT or other physical, operational or process changes that could be made to reduce risk; and

(ii) The cost to install, operate and maintain each emission reduction measure identified in subparagraph (i) for which a postponement or continuation of a postponement is being requested.

(D) The number of employees at the source; and

(E) A description of any other emission reduction measures that will be taken to reduce risk in lieu of implementing each emission reduction measure identified in subparagraph (C)(i) for which a postponement is being requested.

(b)(A) The owner or operator must include the initial postponement request in the permit attachment application under section (5); and

(B) The owner or operator must include a request for continuation of postponement in a letter to the DEQ Director

(c) The owner or operator:

(A) Has the burden of proving inability to pay; and

(B) Is required to make financial information about the source and federal tax returns available to DEQ on a confidential basis using the DEQ form Statement of Financial Condition for Businesses or Statement of Financial Condition for Individuals.

(d) DEQ will do the following upon receipt of the application or letter to the DEQ Director:

(A) Review the initial or continuation of postponement request;

(B) Determine, in DEQ's judgment and discretion, whether the source is able to pay for the installation, maintenance and operation of TBACT;

(i) In considering the owner's or operator's ability to pay, DEQ may use the U.S. Environmental Protection Agency's ABEL, INDIPAY or MUNIPAY computer models to evaluate a respondent's financial condition or ability to pay the full cost of meeting TBACT;

(ii) Upon request of the owner or operator, DEQ will provide the 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) Consider the following at exposure locations that will exceed an applicable Risk Action Level:

(i) The presence of sensitive populations; and

(ii) The percentile of low income and minority persons.

(e) Negotiation and consultation.

(A) DEQ may attempt to negotiate alternatives to the postponement requested with the owner or operator, and may consider such alternatives in the final determination regarding the postponement; and

(B) DEQ may consult with OHA, local elected officials, local Indian governing bodies, and state and federal agencies that have jurisdiction in the area of impact, before making a final determination regarding the postponement.

(f) The DEQ Director must make the final decision to grant, deny or continue a postponement of risk reductions request. The Director may grant a request in full or in part or may revise a previous postponement approval, and may impose any conditions, implementation of reasonable alternative measures, implementation schedules, and requirements for periodic review of the postponement of risk reductions that the Director determines are appropriate.

(5) The owner or operator requesting approval of a Conditional Risk Level must submit the following:

(a) An application for a new or modified F3 Air Toxics Permit Attachment, including:

(A) Identifying information, including the name of the company that owns or operates the source, the owner's or operator's mailing address, the source address, the nature of business, name and phone number of the primary contact at the source, permit number, and SIC or NAICS code of the source;

(B) The results of a Risk Assessment performed under OAR 340-245-0080(8), including the estimated maximum risk from the source;

(C) A proposed Conditional Risk Level;

(D) A demonstration that all significant TEUs at the source meet or will meet TBACT under OAR 340-245-0330, or a request for a postponement of risk reductions from the requirement to meet TBACT under section (4);

(E) A proposed Community Engagement Plan that meets the requirements of OAR 340-245-0250(1); and

(F) Certification of the Conditional Risk Level request as meeting all requirements by an individual who is officially responsible for the processes and operations of the source.

(b) The proposed Conditional Risk Level;

(c) The fee specified in OAR 340-216-8030 Table 3 for a Conditional Risk Level, except that if the owner or operator is required to request both a Risk Reduction Plan and Conditional Risk

Level under OAR 340-245-0080(1)(a)(D), then the owner or operator must submit only one application and must pay only the greater of the fees required to submit either a Risk Reduction Plan or for a Conditional Risk Level under OAR 340-216-8030 Table 3.

(6) Procedural requirements.

(a) No more than 30 days following submittal of a complete application, the owner or operator must hold the first community engagement meeting to present the proposed Conditional Risk Level and receive public comments on the proposal.

(A) The meeting must meet the requirements in OAR 340-245-0250(2);

(B) The owner or operator must provide public notice of the meeting at least 14 days before the meeting date. The public notification must, at a minimum, comply with the requirements of OAR 340-245-0250(3) and provide information on how interested persons may obtain a copy of the Conditional Risk Level proposal and the application. The public notice may include notice of a second community engagement meeting required under subsection (c), provided that the public notice requirement under paragraph (c)(B) for the second meeting must also be met; and

(C) DEQ staff will attend and participate if staffing levels allow it.

(b) Following the community engagement meeting required under subsection (a), the owner or operator may revise the Conditional Risk Level proposal.

(c) No less than 21 days and no more than 35 days following the first community engagement meeting required under subsection (a), the owner or operator must hold a second community engagement meeting to present and explain any proposed revisions to, or reasons for not revising, the Conditional Risk Level proposal and to receive public comments;

(A) The meeting must meet the requirements in OAR 340-245-0250(2);

(B) The owner or operator must provide public notice of the second meeting at least 14 days before the meeting date. The public notification must, at a minimum, meet the requirements of OAR 340-245-0250(3); and

(C) DEQ staff will attend and participate if staffing levels allow it.

(d) Following the second community engagement meeting required under subsection (c) the owner or operator:

(A) May further revise the Conditional Risk Level proposal; and

(B) Must submit a final Conditional Risk Level proposal to DEQ no more than 14 days after the second community engagement meeting required under subsection (c).

(e) No more than 14 days after the second community engagement meeting, the owner or operator must submit to DEQ a meeting summary report that contains the following information regarding each of the two community engagement meetings:

(A) A list of all persons, groups or entities notified by the owner or operator;

(B) A description of how each was notified;

(C) The number of attendees at the meeting;

(D) A summary of the owner or operator's presentation; and

(E) A summary of questions and comments from the participants at the meeting along with responses provided by the owner or operator.

(F) A brief description of any changes the owner or operator made to the Conditional Risk Level proposal after the meeting.

(7) Approval of Conditional Risk Level.

(a) DEQ will propose approval of a Conditional Risk Level proposal if the application submitted under section (5) demonstrates compliance with the requirements described in section (3). DEQ will identify deficiencies that the owner or operator must correct.

(b) If DEQ proposes approval of a Conditional Risk Level proposal, DEQ will prepare a draft Air Toxics Permit Attachment. The draft Air Toxics Permit Attachment may include a compliance schedule to implement the Risk Reduction Plan, if needed.

(c) DEQ will provide a copy of the draft F3 Air Toxics Permit Attachment to the owner or operator and will provide the owner or operator at least 7 days to review and provide feedback to DEQ regarding the draft Air Toxics Permit Attachment before placing it on public notice.

(d) Following consideration of comments from the owner or operator, DEQ may revise the proposed Conditional Risk Level and the draft Air Toxics Permit Attachment.

(e) When DEQ has completed any such revisions, if any, then DEQ will:

(A) Issue the proposed Air Toxics Permit Attachment for public comment and provide a minimum of 40 days public notice for the public to submit written comments to DEQ; and

(B) 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.

(f) DEQ must consider the public comments it receives under subsection (e) and then will determine whether to issue a final Air Toxics Permit Attachment.

(g) DEQ will approve a Conditional Risk Level by its issuance of a final Air Toxics Permit Attachment that specifies the Conditional Risk Level and includes conditions that implement the requirements of section (9).

(h) Only the DEQ Director may approve a Conditional Risk Level that exceeds any DEQ Director Consultation Risk Action Level in OAR 340-245-8010 Table 1 for an existing source, but only after DEQ has provided an opportunity for input from OHA, all local city and county elected officials that represent election districts that include any portion of the area of impact, local Indian governing bodies, and state and federal agencies that have jurisdiction in the area of impact. The Director will consider the input received, and may also consider the following:

(A) The size of the exposed population;

(B) Environmental Justice;

(C) The number of jobs that may be affected; and

(D) The toxicity of the pollutants of most concern.

(8) Distribution of Conditional Risk Level

Following DEQ's issuance of the final Air Toxics Permit Attachment, the owner or operator must:

(a) Distribute the updated Risk Assessment, Conditional Risk Level and the Air Toxics Permit Attachment in hardcopy or electronic format within 30 days of permit issuance to all of the locations identified below within the area of impact approved by DEQ.

(A) Official neighborhood associations;

(B) Schools;

(C) Daycare centers; and

(D) Community groups and sensitive populations, including hospitals, nursing homes, and long-term care facilities; and

(E) Local elected officials, local Indian governing bodies, and state and federal agencies that have jurisdiction in the area of impact.

(b) Submit written notification to DEQ within 45 days of the Air Toxics Permit Attachment issuance that the updated Risk Assessment, Conditional Risk Level and the Air Toxics Permit Attachment have been distributed as required under subsection (a).

(9) Conditional Risk Level Implementation Requirements

(a) In an Air Toxics Permit Attachment that approves a Conditional Risk Level, DEQ must include requirements for the owner or operator of the source to perform periodic TBACT or postponement of risk reductions reviews and submit periodic TBACT updates and if applicable, periodic continuation of postponement of risk reductions requests as follows:

(A) For all significant TEUs for which the most recent TBACT determination concludes that no additional control is required, submit an annual TBACT update report to DEQ with each annual report required by the source's Basic, General, Simple, or Standard ACDP or Title V permit, or by some other date specified in the Air Toxics Permit Attachment; and

(B) For all significant TEUs not addressed under paragraph (A), submit TBACT update reports to DEQ beginning no more than five years after issuance of the permit attachment and every five years thereafter. Submit the update reports with the annual report required to be submitted by the source's operating permit, or by some other date specified in the Air Toxics Permit Attachment;

(C) Submit continuation of postponement of risk reductions requests to DEQ beginning no more than five years after issuance of the permit attachment and every five years thereafter. Submit the requests with the annual report required to be submitted by the source's operating permit, or by some other date specified in the Air Toxics Permit Attachment. Continuation of postponement of risk reductions requests must be made using the procedures under section (4).

(b) The TBACT update reports required under subsection (a) must include the following:

(A) A review identifying all new or improved emissions control measures that can apply to any of the significant TEUs at the source, whether they are currently controlled or not;

(B) For each new or improved emissions control measure identified, a statement whether or not the owner or operator intends to install the control measure, and if the owner or operator intends to install the control measure, then the owner or operator must provide an estimated date by which the control measure will be installed; and

(C) For each new or improved emissions control measure identified that the owner or operator does not intend to install, the owner or operator must provide justification for not installing it, including at a minimum, a review following the procedures of OAR 340-245-0330(2).

(c) The requirement to perform periodic TBACT reviews and submit periodic TBACT update reports under subsection (a) must continue until such time as the risk from the source no longer exceeds the Source Risk Action Level in OAR 340-245-8010 Table 1. If a TEU is equipped with new or improved control measures under this section, future TBACT reviews must still include review of new or improved control measures for that TEU.

(d) When a new or improved emissions control measure is identified under subsection (b), DEQ will review the control measure and any justification provided by the owner or operator for not installing the control measure, and will make a preliminary determination with regard to whether or not the control measure must be installed.

(A) If DEQ's preliminary determination is that the control measure must be installed, DEQ will provide the owner or operator with notice and opportunity to provide input on a final determination. In making the final determination, DEQ will take into consideration the following:

(i) The remaining service life of any existing emission control system that would be replaced;

(ii) The relative effectiveness of the new or improved control measure to reduce the source risk as compared to the risk using the existing control measure;

(iii) The cost of installation and operation, including the cost of removing any existing control measure; and

(iv) Any other factors that DEQ finds are relevant.

(B) If DEQ's final determination is that the control measure must be installed, DEQ will:

(i) Work with the owner or operator to determine the date by which the control measure must be installed within a reasonable time frame; and

(ii) Determine a new Conditional Risk Level based on information on the amount of air toxics removed by the control measure.

(C) The owner or operator must schedule and hold an annual community engagement meeting once each year that the Conditional Risk Level is in effect by a date specified in the permit attachment to present and receive comments on the most recent annual TBACT update report;

(i) The meeting must meet the requirements in OAR 340-245-0250(2); and

(ii) Public notice of the meeting must be given at least 14 days before the meeting date and must, at a minimum, meet the requirements of OAR 340-245-0250(3).

(D) Within 30 days after each annual meeting required under paragraph (C), the owner or operator must submit a meeting summary report to DEQ that contains the following:

(i) A list of all persons, groups or entities notified by the owner or operator;

(ii) A description of how each was notified;

(iii) The number of attendees at the meeting;

(iv) A summary of the owner or operator's presentation; and

(v) A summary of questions and comments from the participants at the meeting along with responses provided by the owner or operator.

(10) Updates and Modification of Conditional Risk Levels

(a) The owner or operator must update or revise a Conditional Risk Level if:

(A) An update or revision is required under section (9) or another rule in this division;

(B) The owner or operator requests a change to the Conditional Risk Level;

(C) The owner or operator requests a change to a condition in an Air Toxics Permit Attachment that would increase the source's risk above the Conditional Risk Level; or

(D) Information becomes known to DEQ, or changes are made to RBCs after the last submitted Conditional Risk Level request that would substantially impact risks to exposed persons or implementation of required changes, and DEQ notifies the owner or operator that the Conditional Risk Level must be updated and resubmitted.

(b) If an owner or operator must update or modify a Conditional Risk Level under subsection (a), then the owner or operator must submit an application for a modification of the Air Toxics Permit Attachment under OAR 340-245-0300(11) that includes:

(A) A description of all proposed changes to the Conditional Risk Level;

(B) A demonstration that the changes are necessary; and

(C) A copy of the proposed revised Conditional Risk Level.

(c) To request an extension to a compliance date in an Air Toxics Permit Attachment, the owner or operator must submit the application at least 180 days before the compliance date specified in the current Air Toxics Permit Attachment.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0240

Source Ambient Monitoring Requirements

(1) Source ambient monitoring requirements.

(a) Source ambient monitoring must be conducted for a period of not less than 12 months. There must be at least 12 months of valid data with greater than 75 percent data completeness per quarter.

(b) The owner or operator requesting approval of a Source Ambient Monitoring Plan must submit the following:

(A) A proposed Source Ambient Monitoring Plan that complies with section (2); and

(B) The fee specified in OAR 340-216-8030 Table 3 for a Source Ambient Monitoring Plan.

(2) A proposed Source Ambient Monitoring Plan must include the following:

(a) Identification of all air toxics that will be monitored;

(b) A description of all proposed monitoring locations;

(c) A description of the monitoring and analysis protocols for each air toxic to be monitored, including at a minimum:

(A) The frequency of sampling at each monitoring location and the duration of each sample (i.e., the length of time in hours each sample runs);

(B) The monitoring equipment and methods to be used for each air toxic;

(C) Analytical methods and the analytical method detection and reporting limits to be used for each air toxic;

(D) Quality assurance and quality control measures to be taken and who will be performing these measures; and

(E) Descriptions of security measures to protect the monitoring equipment.

(d) A description of how to determine and account for the ambient concentration of each air toxic that results from all causes other than the source under consideration, including natural and unknown causes;

(e) A description of how and where meteorological monitoring will be performed and the meteorology equipment used;

(f) A description of how the data will be reduced and how often the results will be reported to DEQ. Results must be reported on at least a monthly basis; and

(g) A description of any process changes that have occurred during the ambient monitoring period that may affect the results of the monitoring.

(3) Procedural requirements for a Source Ambient Monitoring Plan.

If the owner or operator did not following the community engagement requirements under OAR 340-245-0220 or 340-245-0230, they must do the following:

(a) No more than 30 calendar days following submittal of a complete Air Toxics Permit Attachment application or application to modify an Air Toxics Permit Attachment, the owner or operator must hold the first community engagement meeting to present and receive comments on the proposed Source Ambient Monitoring Plan.

(A) The meeting must meet the requirements in OAR 340-245-0250(2);

(B) The owner or operator must provide public notice of the meeting at least 14 calendar days before the meeting date. The public notification must, at a minimum, meet the requirements of OAR 340-245-0250(3) and include the Source Ambient Monitoring Plan. The public notice may include notice of a second community engagement meeting required under subsection (c), provided that the public notice requirement under paragraph (c)(B) for the second meeting is also met; and

(C) DEQ staff will attend and participate if staffing levels allow it.

(b) Following the first community engagement meeting required under subsection (a), the owner or operator may revise the Source Ambient Monitoring Plan.

(c) No less than 21 calendar days but no more than 35 calendar days following the first community engagement meeting required under subsection (a), the owner or operator must hold a second community engagement meeting to present and explain any proposed revisions to, or reasons for not revising, the elements of the Source Ambient Monitoring Plan and receive comments.

(A) The meeting must meet the requirements in OAR 340-245-0250(2).

(B) Public notice of the second meeting must be given at least 14 calendar days before the meeting date. The public notification must, at a minimum, meet the requirements of OAR 340-245-0250(3); and

(C) DEQ staff will attend and participate if staffing levels allow it.

(d) Following the second community engagement meeting required under subsection (c) the owner or operator:

(A) May further revise the Source Ambient Monitoring Plan; and

(B) Must submit a final Source Ambient Monitoring Plan to DEQ no more than 14 calendar days after the second community engagement meeting required under subsection (c).

(e) Within 14 calendar days after the second community engagement meeting, the owner or operator must submit to DEQ a meeting summary report that contains the following information regarding each of the two community engagement meetings:

(A) A list of all persons, groups or entities notified;

(B) A description of how each was notified;

(C) The number of attendees at the meeting;

(D) A summary of the owner or operator’s presentation;

(E) A summary of questions and comments from the participants at the meeting along with responses provided by the owner or operator; and

(F) A brief description of any changes made to the Source Ambient Monitoring Plan after each meeting.

(4) Approval of Source Ambient Monitoring Plan

(a) DEQ will propose approval of a Source Ambient Monitoring Plan if the application submitted under section (3) demonstrates compliance with the requirements described in section (2). DEQ will identify deficiencies that the owner or operator must correct.

(b) If DEQ proposes approval of the Source Ambient Monitoring Plan, DEQ will prepare a draft Air Toxics Permit Attachment. The draft Air Toxics Permit Attachment will include a compliance schedule, if necessary, to implement the Source Ambient Monitoring Plan.

(c) DEQ will provide a copy of the draft F3 Air Toxics Permit Attachment to the owner or operator and will provide the owner or operator at least 7 days to review and provide feedback to DEQ regarding the draft Air Toxics Permit Attachment before placing it on public notice.

(d) Following consideration of comments from the owner or operator, DEQ may revise the proposed Source Ambient Monitoring Plan and the draft Air Toxics Permit Attachment.

(e) When DEQ has complete such revisions, if any, DEQ will:

(A) Issue the proposed Air Toxics Permit Attachment for public comment and provide a minimum of 40 days public notice to submit written comments to DEQ; and

(B) 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 40 calendar days public notice for the hearing.

(f) DEQ must consider the public comments it receives under subsection (e) and then will determine whether to issue a final Air Toxics Permit Attachment.

(g) DEQ will approve a Source Ambient Monitoring Plan by its issuance of a final Air Toxics Permit Attachment that includes enforceable permit conditions and compliance schedules as necessary to implement the Source Ambient Monitoring Plan.

(7) Distribution of the Source Ambient Monitoring Plan.

Following issuance of the final Air Toxics Permit Attachment containing the Source Ambient Monitoring Plan, the owner or operator must:

(a) Distribute the final Risk Assessment, Source Ambient Monitoring Plan and the Air Toxics Permit Attachment in hardcopy or electronic format within 30 calendar days of permit attachment issuance to all locations identified below within the area of impact approved by DEQ:

(A) Official neighborhood associations;

(B) Schools;

(C) Daycare centers;

(D) Community groups and sensitive populations, including hospitals, nursing homes, and long-term care facilities; and

(E) Local elected officials, local Indian governing bodies, and state and federal agencies that have jurisdiction in the area of impact.

(b) Submit written notification to DEQ within 45 calendar days of the Air Toxics Permit Attachment issuance that the updated Risk Assessment, Source Ambient Monitoring Plan and the Air Toxics Permit Attachment have been distributed as required under subsection (a).

(c) Submit monthly monitoring result reports to DEQ, no more than 15 days after all monitoring data becomes available for the month to which the data applies. The reports must include at a minimum all of the following:

(A) Ambient air toxics concentrations, all 24-hour risks and all monthly average risks from all monitoring locations specified in the Source Ambient Monitoring Plan;

(B) Meteorological data summary;

(C) Production data; and

(D) A description of any excess emissions or upset conditions that may affect the ambient air toxics concentrations monitored, including conditions outside the property boundary that may affect ambient air (i.e., forest fires, house fires, train derailments, etc.).

(d) Schedule and hold an annual community engagement meeting each calendar year that the Source Ambient Monitoring Plan is in effect by a date specified in the Air Toxics Permit Attachment to present and receive comments on the most recent report;

(A) The meeting must meet the requirements in OAR 340-245-0250(2); and

(B) Public notice of the meeting must be given at least 14 calendar days before the meeting date and must, at a minimum, meet the requirements of OAR 340-245-0250(3).

(e) Within 30 calendar days after each meeting the owner or operator must submit a meeting summary report to DEQ that contains the following:

(A) A list of all persons, groups or entities notified by the owner or operator;

(B) A description of how each was notified;

(C) The number of attendees at the meeting;

(D) A summary of the owner or operator's presentation; and

(E) A summary of questions and comments from the participants at the meeting along with responses provided by the owner or operator.

(f) Submit a Source Ambient Monitoring final report to DEQ no more than 60 calendar days after completing all Source Ambient Monitoring Plan requirements;

(g) No more than 60 calendar days after completing all Source Ambient Monitoring Plan requirements, the owner or operator must provide public notification that the Source Ambient Monitoring Plan has been completed. The public notification must meet the requirements in OAR 340-245-0250(3).

(8) Updates and Modification to Source Ambient Monitoring Plan.

(a) The owner or operator must update or revise a Source Ambient Monitoring Plan if the owner or operator requests a change to the Source Ambient Monitoring Plan including extension requests, changes to ambient monitoring locations, air toxics monitored, monitoring frequency or schedule.

(b) If an owner or operator must update or modify a Source Ambient Monitoring Plan under subsection (a), then the owner or operator must submit an application for a modification of the Air Toxics Permit Attachment under OAR 340-245-0300(11) no more than 45 days from the date notice was received or it was determined that an update is required under subsection (a) that includes:

(A) A description of all proposed changes to the Source Ambient Monitoring Plan;

(B) A demonstration that the changes are necessary; and

(C) A copy of the proposed revised Source Ambient Monitoring Plan.

(9)(a) Upon completion of the ambient monitoring and reassessment of risk-based on the ambient monitoring, the owner or operator must submit the ambient monitoring data and reassessment of risk-based on the ambient monitoring to DEQ; and

(b) DEQ will review the ambient monitoring data and reassessment of risk-based and determine if they are acceptable to DEQ;

(A) If the ambient monitoring and reassessment of risk are acceptable to DEQ and demonstrate that any category of risk is lower than previously demonstrated under this division, then the owner or operator may request revisions to its permit attachment, Risk Reduction Plan or Conditional Risk Level, as applicable, consistent with the levels of risk determined using the ambient monitoring data. Such revisions may include, but are not limited to: revised risk levels,

elimination of requirements to reduce risk or install emissions reduction measures, and elimination of other requirements that would not be necessary at the revised risk level; or

(B) If the ambient monitoring and reassessment of risk are acceptable to DEQ and demonstrate that any category of risk is higher than previously demonstrated under this division, then the owner or operator must request revisions to its permit attachment, Risk Reduction Plan or Conditional Risk Level, as applicable, consistent with the levels of risk determined using the ambient monitoring data. Such revisions may include, but are not limited to: revised risk levels, addition of requirements to reduce risk or install emissions reduction measures, and other requirements that would be necessary at the revised risk level.

(10) The time for, and expenses of, performing ambient monitoring will not be considered in any request for time extensions under OAR 340-245-0220(7)(b)(B) or (7)(c)(A)(ii).

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0250

Community Engagement Plan and Notice Requirements

The purpose of community engagement is to provide for and encourage direct communication between the owner or operator of a source and the community affected by the source's air toxics emissions. The requirements of this rule are intended to ensure that consideration of Environmental Justice appropriately emphasized throughout implementation. The owner or operator of a source must develop and follow a Community Engagement Plan to ensure compliance with community engagement requirements.

(1) When an owner or operator of a source is required to develop and implement a Community Engagement Plan, the plan must include the following:

(a) A map or other description of the boundary of the area of impact;

(b) Addresses and contact information for any of the following and locations that are entirely or partially within the area of impact:

(i) Official neighborhood associations;

(ii) Schools;

(iii) Daycare centers; and

(iv) Community groups and sensitive populations, including hospitals, nursing homes, and long-term care facilities; and

(v) Local elected officials, local Indian governing bodies, and state and federal agencies that have jurisdiction in the area of impact.

(c) Identification of sensitive populations in the area of impact;

(d) Identification of all languages spoken by more than ten percent of the population in the area of impact, to the extent reasonably possible using census data or other reasonably available community sources of information.

(e) Times, dates and locations of all planned public meetings regarding the source's permitting activities under the Cleaner Air Oregon rules;

(f) Identification of appropriate communication materials/approaches to ensure that community member have sufficient understanding of technical background to be able to meaningfully engage and provide comment;

(g) Complaint line information. The owner or operator must:

(A) Provide an email address or phone number to the source's owner or operator, or its representative;

(B) Identify such contact information as a "complaint line;" and

(C) Regularly monitor and keep records of communications received by the line.

(h) Potential plans for a community committee. If a community committee is requested by ten or more residents who live within the area of impact, the owner or operator must establish a community committee or other forum for regular meetings between community members and the source contact, and provide or agree to a meeting location that is accessible to community members. The frequency of the meetings should be based on mutual agreement between the owner or operator and the community members; and

(i) At the discretion and option of the owner or operator, a description of the owner's or operator's plans to continue its dialogue with the community after the owner or operator has completed its notification requirements. This dialogue could take the form of newsletters, source tours, or additional public meetings. DEQ encourages these efforts and requests that facilities keep DEQ informed about their communication activities.

(2) Community Engagement Meetings. The owner or operator must comply with the following procedures for Community Engagement Meetings:

(a) Community engagement meetings must be scheduled on a weekday evening, or other time that is convenient to the majority of community attendees, at a location that is Americans with Disabilities Act compliant and convenient for community members to attend. The owner or operator must reserve a venue for the community engagement meeting, arrange for audio and visual equipment and personnel to be available at the site, and provide language translation for

all languages spoken by more than ten percent of the population in the area of impact, as determined to the extent reasonably possible using census data or other reasonably available community sources of information.

(b) The agenda for the community engagement meeting must include a presentation by the owner or operator or its representative followed by a question and answer period for the meeting participants. DEQ recommends that the presentation not exceed 30 minutes, with additional time provided for questions and answers as reasonably necessary. The following topics must be included in the presentation:

(A) Purpose of the meeting;

(B) Description of the source: type of operation, processes involved, and materials used or produced at the source;

(C) Description of the Level 3 Source Risk Assessment under OAR 340-245-0080(7) or the Comprehensive Health Risk Assessment process under OAR 340-245-0210;

(D) Description of the source's emissions and results of the Comprehensive Health Risk Assessment;

(E) Description of source's recent compliance history with DEQ; and

(F) Description of source's projects or plans to reduce toxic emissions or risk.

(c) Copies of written informational materials must be made available at the meetings in sufficient numbers to be distributed to the anticipated number of meeting attendees. Informational materials must be translated into any other languages that are used or believed to be used by at least ten percent of residents within 1.5 km of the source, as determined to the extent reasonably possible using census data or other reasonably available community sources of information.

(3) Public notification of Community Engagement Meetings

(a) The owner or operator is required to provide public notification in the area of impact. Public notification efforts must be tailored to ensure that sensitive populations in the community, not just the area of impact, are reached. Notification must be in English as well as any other languages that are used or believed to be used by at least ten percent of residents within 1.5 km of the source, as determined to the extent reasonably possible using census data or other reasonably available community sources of information. If the owner or operator has a public website that is specific to the source requiring community engagement, the owner or operator must post notice of the meeting on the website and must also provide the notice as described either in paragraph (A) or (B):

(A) Contact all of the following by phone or by email and also provide them with a written notice:

(i) Official neighborhood associations for any neighborhoods entirely or partly within the area of impact of the source. If there are no official neighborhood associations, then place a notice in the local newspaper;

(ii) Schools within or close to the area of impact of the source.

(iii) Daycare centers within or close to the area of impact of the source; and

(iv) Community groups and sensitive populations within or close to the area of impact of the source, including hospitals, nursing homes, and long-term care facilities; and

(v) Local elected officials, local Indian governing bodies, and state and federal agencies that have jurisdiction in the area of impact.

(B) Notify by mail all addresses within the area of impact of the source.

(b) Public notification materials. For the purpose of this rule, written notice includes providing documents in electronic format such as, but not limited to, email, email attachments, or portable memory devices. The public notification must include the following information:

(A) An invitation to a community engagement meeting with information about the time, date and location;

(B) The following statement:

"DEQ requires us to hold a community engagement meeting to discuss the health risk from the air toxics emissions from our source. At this meeting, we will present information on our processes, air emissions and the potential health risks from those emissions, and any measures we propose to take to reduce the risks. We will invite discussion and comments at the meeting, or comments may be submitted separately. DEQ staff will attend and participate if staffing levels allow it."

(C) Identifying information, including the name of the company that owns or operates the source, the owner's or operator's mailing address, the source address, website address, name and phone number of the primary contact at the source, and name, phone number and email address for submitting complaints about the company; and

(D) The Risk Assessment required under OAR 340-245-0080(7) or (8).

(c) Distribution of Notice

(A) Not less than 45 days prior to the meeting, the owner or operator is responsible for submitting to DEQ a map or other description of the area of impact.

(B) Not less than 14 days before any community engagement meetings required by OAR 340-245-0220, 340-245-0230, or 340-245-0240 the owner or operator must provide the public

notification materials required under subsection (b) to the recipients required under subsection (a).

(C) Verification of Distribution. Within 14 days of the date of distribution of public notification materials, the owner or operator must submit written notification to DEQ that notices have been distributed as required under OAR 340-245-0220(6) and 340-225-0230(8).

(4) Prior to or upon submittal of the Community Engagement Plan, DEQ recommends arranging a meeting between DEQ and the owner or operator to discuss community engagement meeting plans, including the appropriate persons to attend and assist in the source's presentation at such meetings.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0300

Air Toxics Permit Attachments

(1) Purpose and Intent.

(a) An Air Toxics Permit Attachment is used to:

(A) Authorize owners or operators of a source to construct or modify equipment, processes and activities that discharge air toxics;

(B) Authorize discharge of air toxics from new and existing processes and activities in accordance with the requirements, limitations, and conditions of the Air Toxics Permit Attachment;

(C) Approve, modify and implement a Risk Reduction Plan; and

(D) Approve and modify a Conditional Risk Level and implement the on-going requirements of a Conditional Risk Level.

(b) An Air Toxics Permit Attachment must be attached to a valid air emissions operating or construction permit, and may not be issued to a source before the source has obtained an operating or construction permit.

(c) An Air Toxics Permit Attachment functions as a permanent attachment to an air emissions operating or construction permit and will not be incorporated into an operating or construction permit.

(d) Limits in an Air Toxics Permit Attachment may be established for the purpose of limiting the potential to emit or the risk from a source.

(2) The criteria, requirements and fees pertaining to Air Toxics Permit Attachments are specified in this rule, in OAR 340-216-0069, OAR 340-216-8020 Table 2 and OAR 340-216-8030 Table 3.

(3) An Air Toxics Permit Attachments is in addition to a source's operating or construction permit. An Air Toxics Permit Attachment will have no expiration date.

(4) When a source that does not have and is not required to obtain an operating or construction permit under OAR 340-216-8010 Table 1, Parts A, B or C, excluding Part A category 8, is required to apply for an Air Toxics Permit Attachment under the Cleaner Air Oregon rules, the owner or operator of the source must simultaneously apply for a Basic ACDP under OAR 340-216-8020 Table 2, Part A, category 8. The Basic ACDP is separately subject to the requirements of OAR chapter 340 division 216.

(5) A Basic ACDP under OAR 340-216-8020 Table 2, Part A, category 8 may only be issued when required under section (4).

(6) An Air Toxics Permit Attachment may not be issued in lieu of an otherwise required operating or construction permit.

(7) Application Requirements.

(a) Any owner or operator requesting a new or modified Air Toxics Permit Attachment must submit an application that includes all of the information specified under OAR 340-216-0040(1), as well as the relevant information required under OAR 340-245-0080, except that DEQ may waive information that it deems unnecessary or duplicative.

(b) The owner or operator of a new source with a source risk level of 5 in 1 million to 10 in 1 million, or Hazard Index of 0.5 to 1, as determined under the Level 1 through 4 procedures in OAR 340-245-0080(5) through (8), must notify the public as described in this subsection no more than 7 days after it submits any application under this division about its proposed action. Public notification efforts must be tailored to ensure that sensitive populations in the community are reached. If the owner or operator has a public website, the owner or operator must post its notice under this subsection on the website, and the notice must also satisfy all of the requirements in either paragraph (A) or (B):

(A) Contact all of the following that are located entirely or partly within 1.5 km of the source; contact must be by phone or by email and also by providing them with written notice:

(i) Official neighborhood associations. If there are no official neighborhood associations, then place a notice in a newspaper of general circulation in the area where the source is or will be located or a DEQ publication designed to give general public notice; and other means, if necessary, to assure adequate notice to the affected public.

(ii) Schools;

(iii) Daycare centers; and

(iv) Community groups and sensitive populations, including hospitals, nursing homes, and long-term care facilities; and

(v) Local elected officials, local Indian governing bodies, and state and federal agencies that have jurisdiction in the area of impact.

(B) Provide written notification by mail to all addresses within 1.5 km of source. Notification must be in English as well as any other languages that are believed to be used by ten percent of residents or more within 1.5 km of the source, as determined to the extent reasonably possible using census data or other reasonably available community sources of information.

(C) Notification must include:

(i) Description of the source, type of operation, processes involved, and materials used or produced at the source;

(ii) Description of source emissions and results of the Risk Assessment performed under OAR 340-245-0080(5) through (8), as applicable;

(iii) What the source intends to do to reduce toxic emissions or risk;

(iv) An offer to hold a community engagement meeting if 10 people or a group representing 10 or more individuals request one; and

(v) Contact information for the source, for requesting a community engagement meeting or answering any questions regarding the notification.

(c) The owner or operator of a new source subject to subsection (b) must hold one public meeting within 30 days of the request if a meeting is requested by more than 10 people or a group representing 10 or more individuals. If such a meeting is required, then the source must:

(A) Provide at least 14 days notification of the meeting;

(B) Provide notification of the meeting following the requirements under subsection (7)(b);

(C) Provide public notification materials that include:

(i) An invitation to a community engagement meeting with information about the time, date and location;

(ii) The following statement:

“DEQ requires us to hold a community engagement meeting to discuss the health risk from the air toxics emissions from our source. At this meeting, we will present information on our processes, air emissions and the potential health risks from those emissions, and any measures

we propose to take to reduce the risks. We will invite discussion and comments at the meeting, or comments may be submitted separately. DEQ staff will attend and participate if staffing levels allow it."

(iii) Identifying information, including the name of the company that owns or operates the source, the owner's or operator's mailing address, the source address, website address, name and phone number of the primary contact at the source, and name, phone number and email address for submitting complaints about the company;

(iv) The estimated health risk; and

(v) The specific toxic air contaminants that are contributing substantially to the health risk;

(D) Schedule the public meeting on a weekday evening at a location that is American with Disabilities Act compliant and convenient for community members. The owner or operator must reserve a venue for the public meeting, arrange for audio and visual equipment and personnel, and language translation, if necessary. Translation will be required for all languages spoken by more than ten percent of the population in the area of impact, as determined to the extent reasonably possible using census data or other reasonably available community sources of information;

(E) Provide at the public a presentation about the source by a representative of the owner or operator, followed by a question and answer period for meeting participants. DEQ recommends that the presentation not exceed 30 minutes, with additional time provided for questions and answers as reasonably necessary. The following topics must be included in the presentation:

(i) Purpose of the meeting;

(ii) Description of the source: type of operation, processes involved, and materials used or produced at the source; and

(iii) Description of source emissions; and

(F) Submit a meeting summary report for the public meeting to DEQ within 14 days after the meeting that contains the following:

(i) A list of all persons, groups or entities notified by the owner or operator;

(ii) A description of how each was notified;

(iii) The number of attendees at the meeting;

(iv) A summary of the owner or operator's presentation; and

(v) A summary of questions and comments from the participants at the meeting along with responses provided by the owner or operator.

(8) Fees. Applicants must pay the applicable fees in OAR 340-216-8030 Table 3 and OAR 340-220-0050.

(9) Air Toxics Permit Attachment content.

(a) An Air Toxics Permit Attachment must:

(A) Identify the source that the Permit Attachment is issued to;

(B) Include a list of all TEUs that are subject to an Air Toxics Permit Attachment in addition to all exempt and de minimis TEUs;

(C) Include annual and daily Risk Limits established under OAR 340-245-0310;

(D) Include testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with all limits or requirements in the Air Toxics Permit Attachment, as necessary;

(E) Include a requirement to construct according to approved plans, if applicable;

(F) Include other limits and requirements as necessary to ensure compliance with the Cleaner Air Oregon rules; and

(G) Include a compliance schedule to ensure compliance or progress toward compliance with the applicable requirements in the Cleaner Air Oregon rules, as necessary.

(b) An Air Toxics Permit Attachment may establish or revise any operating limits or conditions necessary under the Cleaner Air Oregon rules, including annual or short-term air toxics emission limits, conditions to limit risk from TEUs or the entire source, and operational limits for air toxics, including limits or levels that are equipment specific, process specific, or that apply to the entire source.

(c) An Air Toxics Permit Attachment may not add, delete or revise conditions in an operating or construction permit, including Plant Site Emission Limits.

(10) Public notice requirements for Air Toxics Permit Attachment issuance, modification, renewal and cancellation.

(a) The minimum public notice procedures for issuance of a new Air Toxics Permit Attachment are listed in the applicable sections of OAR 340-245-0080. DEQ may enhance the public notice procedures at its discretion.

(b) When an existing Air Toxics Permit Attachment is replaced by a new Air Toxics Permit Attachment, the minimum public notice procedure is the procedure for issuance of the new Air Toxics Permit Attachment.

(11) Procedures for Air Toxics Permit Attachment modification

(a) No person may make any of the changes listed below at any source that has been issued an Air Toxics Permit Attachment without first complying with the applicable requirements of OAR 340-245-0030 and this section:

(A) Construct a new or modify a TEU;

(B) Increase source risk above a Risk Limit; or

(C) Relocate a TEU.

(b) To modify an Air Toxics Permit Attachment, the owner or operator must submit a complete application for a modification of the Air Toxics Permit Attachment, and pay the applicable attachment modification fees in subsection (d);

(c) When DEQ receives an application to modify an Air Toxics Permit Attachment DEQ will use the following public notice procedures:

(A) Category III public notice procedures in OAR 340 division 209 if the change will:

(i) Increase source risk;

(ii) Extend any compliance dates in a compliance schedule by six months or more;

(iii) Significantly change proposed control methods in a Risk Reduction Plan; or

(iv) Reduce public involvement in a Community Engagement Plan.

(B) Category I public notice procedures in OAR 340 division 209 for changes that do not:

(i) Substantively change the Risk Reduction Plan; or

(ii) Increase the level of risk that the Risk Reduction Plan is intended to achieve.

(C) Category II public notice procedures in OAR 340 division 209 for all other types of permit changes not described in paragraphs (A) and (B).

(d) The fee for a Source Air Toxics Permit Attachment modification is:

(A) The Moderate Technical Modification fee under OAR 340-216-8030 Table 3 for modifications under paragraph (11)(c)(A);

(B) The Basic Technical Modification fee under OAR 340-216-8030 Table 3 for modifications under paragraph (11)(c)(B); or

(C) The Simple Technical Modification fee under OAR 340-216-8030 Table 3 for modifications under paragraph (11)(c)(C).

(e) The fee for a TEU Air Toxics Permit Attachment modification is the Basic Technical Modification fee under OAR 340-216-8030 Table 3.

(f) DEQ may modify an Air Toxics Permit Attachment at the same time as the source's operating permit is being renewed or undergoing a significant or major modification, if DEQ deems such modification necessary. DEQ must follow the applicable public notice procedure for the Air Toxics Permit Attachment modification under subsection (c), or the public notice procedure for the operating permit, whichever provides more public notice.

(12) Procedures for Air Toxics Permit Attachment termination or revocation

(a) An Air Toxics Permit Attachment may be terminated or revoked under the criteria in OAR 340-216-0082(2), (3) and (4), or for the following reasons:

(A) DEQ determines that the Air Toxics Permit Attachment is no longer required; or

(B) The source's operating permit is terminated or revoked.

(b) Public notice is not required for termination or revocation of an Air Toxics Permit Attachment.

(13) Combining multiple Air Toxics Permit Attachment Applications. When the rules in this division require an owner or operator to apply for more than one Air Toxics Permit Attachment at one time, the applications may be combined as specified below.

(a) If the required applications are only for new or modified TEU Air Toxics Permit Attachments for the same source, and no more than three applications are required, the owner or operator may:

(A) Combine the applications into one application for a TEU Air Toxics Permit Attachment; and

(B) Pay a single fee equal to the highest applicable fee for a new or modified TEU Air Toxics Permit Attachment.

(b) If any of the required applications is for a new or modified Source Air Toxics Permit Attachment, or the criteria in subsection (a) does not apply, the owner or operator must:

(A) Combine all applications into one application for a new or modified Source Air Toxics Permit Attachment, as appropriate; and

(B) Pay a single fee equal to the highest applicable fee for a new or modified Source Air Toxics Permit Attachment, as appropriate.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0310

Source Risk Limits

(1) Source Risk Limits limit the chronic and acute risk from a source.

(a) Source Risk Limits that address chronic risk apply on a rolling 12 consecutive month basis and limit the source's chronic risk or annual potential to emit, as applicable; and

(b) Source Risk Limits that address acute risk apply on a daily basis and limit the source's acute risk or daily potential to emit, as applicable.

(2) Source Risk Limits must be expressed in terms of risk, such as X per million for excess cancer risk or Hazard Index of Y, where X and Y indicate a numerical value. Source risk Limits may also include emissions limits that serve to maintain risk below the Source risk Limits.

(3) Source Risk Limits will be established on an individual source basis as follows:

(i) Source Risk Limits will be established separately for each of the following risk categories: chronic cancer, chronic noncancer and acute noncancer risk;

(ii) Source Risk Limits will be set at the applicable Source Risk Action Levels for the source for any risk categories that are not subject to a Conditional Risk Level, except as provided under section (4); and

(iii) Source Risk Limits will be set equal to any Conditional Risk Levels that apply to the source.

(4) A Source Risk Limit may be set at a level that is less than an applicable Source Risk Action Level if DEQ concludes under OAR 340-245-0090 that risk at any exposure location exceeds, or may exceed if risk increases, an Area Multi-Source Risk Action Level. In this case, DEQ:

(a) Will identify the sources that contribute to the risk that exceeds, or may exceed if risk increases, an Area Multi-Source Risk Action Level;

(b) Will establish risk limits for the sources identified under subsection (a) that will ensure that the risk at the identified exposure locations will not:

(A) Exceed the Area Multi-Source Risk Action Level if the risk is below the Area Multi-Source Risk Action Level; or

(B) Increase the risk at the identified exposure locations if the risk already exceeds the Area Multi-Source Risk Action Level.

(c) May set risk limits that apply to one or more individual TEUs; and

(d) May set the Source Risk Limit at the level necessary to be protective of the Area Multi-Source Risk Action Level.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155

Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0320

Calculations

(1) Directions for the Level 1 Risk Assessment Tool.

(a) When required under OAR 340-245-0080, an owner or operator must calculate a separate sum of risk ratios for each of the following categories: excess cancer risk, chronic noncancer risk, and acute noncancer risk.

(b) The owner or operator must use the following emission rates in this calculation:

(A) Emission rates based on **<emission rate to be determined>**, or requested PTE limit, as appropriate;

(B) For excess cancer risk and chronic noncancer risk, the annual emission rates; and

(C) For acute noncancer risk, the maximum 24-hour emission rates.

(c) The owner or operator must perform each of the following calculations in paragraphs (A), (B) and (C), except as allowed in paragraph (D):

(A) For cancer risk:

(i) For each TEU, use the stack height and distance to the nearest exposure location to obtain the appropriate dispersion factor from OAR 340-245-8060 Table 6A;

(ii) For each TEU and each air toxic emitted from the TEU, multiply the emission rate by the dispersion factor to calculate an air concentration;

(iii) For each TEU and each air toxic emitted from the TEU, divide the air concentration of the air toxic calculated under subparagraph (ii) by the Residential Chronic Cancer RBC for that air toxic in OAR 340-245-8050 Table 5 to calculate the risk from that air toxic;

(iv) For each TEU, add up the risk from each air toxic calculated under subparagraph (iii) to calculate the total risk from that TEU; and

(v) For all TEUs, add up all of the risks calculated under subparagraph (iv) to obtain the total excess cancer risk in 1 million for the entire source.

(B) For chronic noncancer risk:

(i) For each TEU, use the stack height and distance to the nearest exposure location to obtain the appropriate dispersion factor from OAR 340-245-8060 Table 6A;

(ii) For each TEU and each air toxic emitted from the TEU, multiply the emission rate by the dispersion factor to calculate an air concentration;

(iii) For each TEU and each air toxic emitted from the TEU, divide the air concentration of the air toxic calculated under subparagraph (ii) by the Residential Chronic Noncancer RBC for that air toxic in OAR 340-245-8050 Table 5 to calculate the risk from that air toxic;

(iv) For each TEU, add up the risk from each air toxic calculated under subparagraph (iii) to calculate the total risk from that TEU; and

(v) For all TEUs, add up all of the risks calculated under subparagraph (iv) to obtain the total chronic noncancer Hazard Index for the entire source. Hazard Indices may be calculated by noncancer target organ in consultation with DEQ.

(C) For acute noncancer risk:

(i) For each TEU, use the stack height and distance to the nearest exposure location to obtain the appropriate dispersion factor from OAR 340-245-8060 Table 6B;

(ii) For each TEU and each air toxic emitted from the TEU, multiply the emission rate by the dispersion factor to calculate an air concentration;

(iii) For each TEU and each air toxic emitted from the TEU, divide the air concentration of the air toxic calculated under subparagraph (ii) by the Acute RBC for that air toxic in OAR 340-245-8050 Table 5 to calculate the risk from that air toxic;

(iv) For each TEU, add up the risk from each air toxic calculated under subparagraph (iii) to calculate the total risk from that TEU; and

(v) For all TEUs, add up all of the risks calculated under subparagraph (iv) to obtain the total acute noncancer Hazard Index for the entire source. Hazard Indices may be calculated by noncancer target organ in consultation with DEQ.

(D) In lieu of using stack height and distance to the nearest exposure location to obtain the appropriate dispersion factor from OAR 340-245-8060 Table 6A or 6B, the owner or operator may instead use the dispersion factor from the upper-left corner of each table. Using these dispersion factors will result in conservatively high estimates of risk. If the risks calculated using these dispersion factors are less than or equal to all applicable Source Risk Action Levels, the owner or operator may choose to use the risks calculated in this manner to show compliance with the Source Risk Action Levels.

(2) Sum of Risk Ratios calculation procedure for Level 2, 3 and 4 Risk Assessments

(a) When required under OAR 340-245-0080, an owner or operator must calculate a separate sum of risk ratios for each of the following categories: excess cancer risk, chronic noncancer risk, and acute noncancer risk;

(b) The owner or operator must use the following concentrations in this calculation:

(A) For excess cancer risk and chronic noncancer risk, the annual average concentrations must be used; and

(B) For acute noncancer risk, the maximum 24-hour average concentrations must be used.

(c) The owner or operator must perform the following calculations for each of the categories listed in subsection (a) and using the concentrations in subsection (b):

(A) For each TEU, divide the modeled concentration of each air toxic by the appropriate RBC of that air toxic in OAR 340-245-8050 Table 5, ensuring that the concentration is expressed in micrograms per cubic meter;

(B) For each TEU, add up the ratios calculated under paragraph (A); and

(C) For an entire source, add up the ratios calculated under paragraph (B) to obtain the excess cancer risk in one million or the Hazard Index, whichever is applicable. Hazard Indices may be calculated by noncancer target organ.

(3) Determination of source status relative to noncancer Risk Action Levels

(a) For noncancer Risk Action Levels marked with an asterisk (*) in OAR-340-245-8010 Table 1, a case-by-case determination must be made by DEQ or OHA toxicologists as to whether the source is considered over the noncancer Risk Action Level for purposes of this rule. In making this determination, DEQ or OHA toxicologists will consider the criteria in paragraphs (A) through (F) on a target organ-specific basis for the air toxics contributing the most to the exceedance of the noncancer Risk Action Level:

(A) The magnitude of uncertainty factors embedded in the toxicity reference value for air toxics of greatest concern. Uncertainty factors provide a buffer between concentrations where health effects are expected to occur and the level identified as health-protective. The magnitude of these uncertainty factors varies from chemical to chemical.

(B) The severity and permanence of the health effect underlying the toxicity reference value. Developmentally toxic chemicals in particular deserve special consideration due to the potential for lasting impacts from short-term exposures during critical windows of development.

(C) The relevance of the critical study underlying the toxicity reference value. Aspects of study design such as the dosing method or duration of exposure may influence the interpretation of the severity of the health risk. This is particularly relevant in cases where we use intermediate

comparison values (for which effects may be measured over months) as a substitute for acute comparison values (for which effects may be measured over days).

(D) Potential for cumulative and aggregate toxic exposures that may contribute to the same health effect in the potentially exposed population. Greater caution is warranted if a chemical is present in both air and water or if multiple chemicals present may impact that same health effect.

(E) The sensitivity of the potentially exposed population. Environmental justice communities, pregnant women and developing fetuses, children, the elderly, and people with pre-existing health conditions may be particularly susceptible to effects of environmental contaminants.

(F) The level of certainty about and degree to which modeled concentrations of air toxics are likely to be representative of conditions to which the population of concern is being, or could be, exposed. For example, if modeling is based on potential to emit vs. actual emissions and the magnitude of the difference between actual and potential.

(G) Toxicologist do not have discretion to consider a target organ specific HI greater than 10 for an existing facility or 3 for a new facility below the noncancer Risk Action Level.

(H) The validity of the toxicity reference values for individual air toxics specified in this rule will not be considered as a criterion in making these determinations.

(b) Procedure:

(A) The owner or operator of a source that has target organ specific Hazard Indices greater than a noncancer Risk Action Level with an asterisk (*) in OAR-340-245-8010 Table 1 may request that their HI be considered below the noncancer Risk Action Level based on criteria listed in subsection (a).

(B) A request under paragraph (A) should identify which contaminants are contributing most to the HI and document the HQs for those individual contaminants.

(C) A DEQ or OHA toxicologist will evaluate the risk based on the criteria listed in subsection (a) above.

(D) If the DEQ or OHA toxicologist concludes that risk is unacceptable, then facility's noncancer HI would be considered above the noncancer Risk Action Level.

(E) If the DEQ or OHA toxicologist concludes that risk is acceptable, then the facility would be considered below the noncancer Risk Action Level even if the calculated HI is greater than the noncancer Risk Action Level listed with an asterisk (*) in OAR-340-245-8010 Table 1.

(4) Significant figures and rounding. When a source risk is calculated for comparison to the Source Risk Action Levels and Source De Minimis Risk Action Levels in OAR 340-245-8010 Table 1:

(a) The final risk must be rounded off as follows:

(A) For comparison to De Minimis Levels, round off to one decimal place; and

(B) For comparison to Risk Action Levels, round off to a whole number; and

(b) Round up if the last figure to be rounded off is 5 or greater, otherwise round down.

(5) Non-detect source test results. Owners or operators of sources must use the DEQ Source Sampling Manual (see OAR 340-200-0035) reference test methods for measuring air toxics and the criteria that are used to handle non-detect data from source tests conducted in accordance with OAR 340 division 212.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0330

TBACT and Other Emission Reduction Methods

(1) The owner or operator of a source may perform a TBACT determination for a TEU at any point in the Risk Assessment process, which includes an evaluation and consideration of pollution prevention alternatives that may reduce or eliminate the air toxic at its source.

(a) The TBACT determination must be performed by the owner or operator as specified in section (2);

(b) The TBACT determination must be submitted to DEQ for approval, and the owner or operator must pay the TBACT determination fee, as applicable, specified in OAR 340-216-8030 Table 3; and

(c) A TEU is considered to meet TBACT if DEQ approves the TBACT determination for a TEU and the owner or operator has implemented any operational or source modifications required to meet TBACT, or will implement them on an enforceable schedule included in an Air Toxics Permit Attachment.

(2) Case-by-Case TBACT determination. DEQ must approve any case-by-case TBACT determination that is proposed by the owner or operator of a source.

(a) DEQ approves a case-by-case TBACT determination using a “Top Down” approach. To perform a “Top Down” approach, the owner or operator of the TEU must identify and evaluate a comprehensive list of air pollution control measures that may be applied to the TEU. The evaluation of chemical or process modifications that reduce or eliminate the air toxic at its source must occur prior to evaluating other measures on the list, including innovative control technologies, modification of the process or process equipment, management practices, emission controls applied to similar types of TEUs and combinations of these control measures.

(b) In the TBACT analysis, the owner or operator must list air pollution control measures in descending order of air pollution control effectiveness. If the most effective measure is not selected, then the owner or operator must demonstrate that the most effective control measure should be eliminated for one or more of the following reasons:

(A) Technical infeasibility. The justification must show that physical, chemical, or engineering principles, and/or technical difficulties would prevent the successful application of the control measure;

(B) Environmental impacts. The justification must show that the adverse environmental effects of the most effective control measure (i.e., effects on water or land, air toxics emissions, or increased environmental hazards), when compared with its air toxics emission reduction benefits, would make use of the most effective control measure unreasonable;

(C) Unreasonable cost. The justification must show that the total and incremental costs of the control measure to be eliminated from consideration on a cost per mass of pollutant controlled basis would be unreasonable. The demonstration must comply with the following requirements:

(i) The cost of the control measure must be estimated in a manner consistent with that used in the EPA Air Pollution Control Cost Manual, Sixth Edition, EPA/452/B-02-001, January 2002, or a comparable analysis approved by DEQ;

(ii) The cost of the control measure may include the costs to retrofit the control measure to an existing TEU or to replace or upgrade an existing control measure, such as but not limited to costs to remove, dispose of or revise existing equipment, foundations or structural supports, to customize equipment to fit in the available space, or to overcome limited accessibility;

(iii) For air toxics that are also criteria pollutants, cost effectiveness of the control measure must be evaluated on the basis of the amount of criteria pollutant controlled by the measure;

(iv) If the air toxic or air toxics being considered are part of a mixed exhaust stream containing both air toxics and criteria pollutants that are not air toxics, the cost effectiveness of the control measure must be based on the tons per year of the mixed exhaust stream removed, not on the tons per year of the air toxics removed alone; and

(v) For air toxics that are not also criteria pollutants, the cost effectiveness will be reviewed by DEQ on a case-by-case basis; or

(D) Energy impacts. The justification must show that the most effective control measure uses fuels that are not reliably available; or that the energy consumed by the most effective control measure is greater than the proposed measure(s), and that the extra energy used, when compared with the air toxics emission reduction benefits resulting from the most effective control measure, would make use of the most effective measure unreasonable.

(c) If the most effective reduction measure is eliminated from consideration, the applicant should evaluate each successive reduction measure on the list, using the procedures described above,

until a reduction measure is reached that is not eliminated. This measure would constitute the case by case TBACT, as appropriate, for the TEU. If all measures are eliminated and DEQ agrees with this determination, then the TEU is considered to meet TBACT, as appropriate, with no changes to the TEU required.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0340

Emissions Inventory and Modeling Information

(1) Individual emissions inventory. For the purpose of DEQ evaluating risk, DEQ may require the owner or operator of any permitted or unpermitted source to submit an emissions inventory of all air toxics listed in OAR 340-245-8020 Table 2, upon written request. The owner or operator must submit the emissions inventory within 30 days of its receipt of the written request, unless DEQ allows additional time under section (3).

(2) Periodic state-wide emissions inventory. At a minimum of every three years, DEQ may require the owners and operators of permitted and unpermitted sources that have previously submitted emissions inventories under section (1) to submit an updated air toxics emissions inventory.

(a) If DEQ requires such updated inventories, DEQ will notify owners or operators of sources in writing; and

(b) The owner or operator of each source must submit its updated emissions inventory electronically to DEQ not later than 90 days after the date DEQ sends the written notice, unless additional time is allowed under section (3).

(3) The owner or operator may request, and DEQ may grant, up to an additional 60 days to submit the air toxics emissions inventory if the owner or operator can demonstrate to DEQ's satisfaction that additional time is needed to complete the inventory.

(4) Emissions inventory requirements.

(a) All sources must submit:

(A) A list of emission units or TEUs and activities that emit air toxics. The list of emission units, TEUs or activities that emit air toxics should not be limited to what is listed in a source's operating permit but should include all potential sources of air toxic emissions;

(B) A list of annual production and fuel and/or material usage rates for each emissions unit, TEU and activity for both of the following:

(i) The calendar year preceding the year DEQ's written request is made; and

(ii) The projected maximum year. Use the projected maximum annual production and process rates that are used to calculate Plant Site Emissions Limits for permits or are used in the permit review report to estimate emissions whenever possible;

(C) Provide material balance information using Safety Data Sheets (formerly Material Safety Data Sheets) and/or Technical Data Sheets for solvent or coating materials used in any process; and

(D) Operating schedule (hours/day, days/year, seasonal variability) for the facility and/or emission units, TEUs and activities.

(b) Sources with Title V, Standard and Simple Air Contaminant Discharge Permits, and unpermitted sources when DEQ so requires, must also submit:

(A) A list of all air toxics emitted by the source;

(B) A list of all TEUs, and of all emissions units if TEUs are defined differently than emissions units;

(C) A list of any exempt TEUs;

(D) The amount of each air toxic emitted from each emission unit, TEU and activity, with the emission factors used or material balance information, as appropriate, for both of the following:

(i) The calendar year preceding the year DEQ's written request is made; and

(ii) The projected maximum year. Use the projected maximum annual production and process rates that are used to calculate Plant Site Emissions Limits for permits or are used in the permit review report to estimate emissions whenever possible.

(E) Emissions must be reported as mass emitted per 24 hours for each air toxic that has a short-term RBC, and as mass emitted per year for each air toxic that has an annual RBC or has no RBC; and

(F) The name of each resource used to obtain air toxics emission factors or methodologies used to estimate emissions (e.g., AP-42 or WebFIRE, California Air Toxic Emission Factors, etc.).

(5) Approval of air toxics emissions inventory reports

(a) Within 60 days of receipt of the air toxics emissions inventory report, DEQ will confirm receipt in writing and conduct an initial review of the source's air toxics emissions inventory report.

(b) DEQ will approve or reject the air toxics emissions inventory report and notify the owner or operator of DEQ's decision. DEQ's approval or rejection will be based on whether:

(A) The air toxics emissions inventory report was prepared consistent with section (4); and

(B) The information provided was complete and accurate.

(c) Within 60 days of the date of notification by DEQ of air toxics emissions inventory report notice of deficiency, an owner or operator must revise and resubmit an air toxics emissions Inventory Report that corrects all identified deficiencies. DEQ will either:

(A) Approve the revised and resubmitted air toxics emissions inventory report; or

(B) Modify the air toxics emissions inventory report as DEQ deems appropriate and approve it as modified.

(6) Modeling information. For the purpose of any risk evaluation undertaken by DEQ, DEQ may require the owner or operator of any permitted or unpermitted source to submit the following information upon written request. The owner or operator must submit the requested information within 30 days of receipt of the request, unless DEQ allows additional time under section (3):

(a) A site map of the area where the source is located, with map scale, such that the area surrounding the source is shown for a distance of at least 5 km from the source's nearest property boundary. The map must show the source location and property boundary and all of the following within a distance of 2 km from the source's nearest property boundary: residential areas, schools, daycare centers, hospitals, nursing homes, and long-term care facilities;

(b) A plot plan of the source showing the locations of the following:

(A) The source's property boundary and locations of all buildings; and

(B) All emissions points and areas where fugitive emissions occur;

(c) The following physical information:

(A) For each emissions point, including points or areas where fugitive emissions are released, to the extent that the source can obtain the information without conducting emissions measurements:

(i) Latitude and longitude or Universal Transverse Mercator (UTM) coordinates;

(ii) Height of the release point or area above ground level;

(iii) Cross-sectional dimensions and shape of the release point or area, such as stack diameter, area of fugitive emissions, and horizontal and vertical dimensions of volume sources;

(iv) The direction in which emissions are released, and any obstructions that may affect the release point such as, but not limited to, rain caps, roof overhangs and building openings;

(v) Temperature of the emissions at the release point and whether the value is measured or estimated; and

(vi) Volumetric flow rate of the emissions at the release point and whether the value is measured or estimated.

(B) Building dimensions for structures that may influence downwash of emissions, including horizontal dimensions and heights above ground level to roof, terraces, and parapets; and

(d) Emissions data for all emission points from the source or modification. This data must represent potential to emit emission rates for the annual and 24-hour averaging times.

(7) Recordkeeping. The owner or operator of a source that provides DEQ with an emissions inventory under this rule must retain a record of the air toxics emissions inventory for five years from the date the inventory is submitted to DEQ.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0400

Toxicity Reference Value Hierarchy

(1) This rule lists hierarchies of preference for toxicity information from governmental agencies that OHA and DEQ consider authoritative in terms of their scientific rigor and methods.

(a) OHA and DEQ will select and use toxicity reference values from the toxicity information published by the authoritative bodies listed in sections (2) and (3). Toxicity reference values will be chosen from the most preferred authoritative body that published a value for the air toxic in question upon DEQ's confirmation, in consultation with OHA, that such decision is supported by peer-reviewed science and is current.

(b) The toxicity reference values are used to develop RBCs; and

(c) DEQ will consult with OHA in the selection of toxicity reference values and development of RBCs.

(2) Chronic toxicity reference values.

(a) The authoritative bodies listed below that publish toxicity reference values are in order of preference for chronic toxicity reference values to develop chronic RBCs with averaging times of one year or longer:

(A) DEQ alone or in consultation with OHA or the Air Toxics Science Advisory Committee, including, for example, Ambient Benchmark Concentrations;

(B) EPA, Integrated Risk Information System (IRIS) Reference Concentrations (RfC) and Inhalation Unit Risk (IUR);

(C) EPA, Office of Superfund Remediation and Technology Innovation (OSRTI) provisional peer reviewed toxicity value (PPRTV) program (Reference Concentrations (RfCs) and Inhalation Unit Risks (IURs));

(D) United States Agency for Toxic Substances and Disease Registry (ATSDR), chronic inhalation Minimal Risk Level (MRL); and

(E) California's Office of Environmental Health Hazard Assessment (OEHHA), chronic Reference Exposure Level (REL) and Inhalation Unit Risk (IUR).

(b) To the extent possible, DEQ will generate a toxicity reference value for both cancer and noncancer health effects for each air toxic. Therefore, DEQ will follow the hierarchy in subsection (a) for cancer and noncancer toxicity reference values separately. DEQ will calculate toxicity reference values using 1 in 1 million as the target excess cancer risk level or a hazard quotient of 1 for noncancer toxicity reference values.

(3) Short-term toxicity reference values.

(a) The authoritative bodies listed below that publish toxicity reference values are in order of preference for short-term toxicity reference values used to develop short-term RBCs with a 24-hour averaging time:

(A) DEQ, alone or in consultation with OHA or the Air Toxics Science Advisory Committee;

(B) United States Agency for Toxic Substances and Disease Registry (ATSDR), Acute Minimal Risk Levels (MRLs);

(C) California's Office of Environmental Health Hazard Assessment (OEHHA), Acute Reference Exposure Level (REL); and

(D) United States Agency for Toxic Substances and Disease Registry (ATSDR), Intermediate Minimal Risk Levels (MRLs).

(b) If no short-term toxicity reference values are available from authoritative bodies listed in subsection (a), no short-term RBC will be recommended or proposed.

(c) If the short-term toxicity reference value derived under this section is lower than the chronic noncancer toxicity reference value derived under section (2), the chronic noncancer toxicity reference value will be used for the short-term toxicity reference value.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0410

Calculation of Toxicity Reference Values and Risk-Based Concentrations

(1) Toxicity Reference Values

(a) Cancer toxicity reference values (TRVs) based on a chemical-specific inhalation unit risk (IUR) factor will be calculated using the following equation:

$$TRV_{Cancer} = \frac{Target\ Risk}{IUR}$$

Where:

Target Risk = 1 in 1 million excess cancer risk

IUR = Inhalation Unit Risk $((\mu g/m^3)^{-1})$ from the authoritative bodies listed in OAR 340-245-0400(2).

Cancer TRVs are shown in OAR 340-245-8030 Table 3.

(b) Noncancer toxicity reference value TRVs will be based directly on chemical-specific toxicity reference values:

$$TRVnc = RfCnc$$

$$TRVa = RfCa$$

Where:

TRVnc =Toxicity reference value, noncancer, chronic ($\mu g/m^3$)

TRVa = Toxicity reference value, noncancer, acute ($\mu g/m^3$)

RfCnc = Reference Concentration, chronic ($\mu g/m^3$) from the authoritative bodies listed in OAR 340-245-0400(2), upon confirmation by DEQ, in consultation with OHA.

RfCa = Reference Concentration, acute ($\mu g/m^3$) from the authoritative bodies listed in OAR 340-245-0400(2) or (3), upon confirmation by DEQ, in consultation with OHA.

Chronic and acute noncancer TRVs are provided in OAR 340-245-8030 Table 3.

(2) Risk-based Concentrations

(a)(A) Residential RBCs will be calculated based on TRVs. Two modifications of the TRV will be required, if appropriate. If a chemical is identified by DEQ to require consideration of exposure pathways other than inhalation, a multipathway adjustment factor will be used. If a

chemical is identified by EPA as a carcinogen acting by a mutagenic mode of action, and therefore having greater toxicity during early-life stages, an early-life adjustment factor will be used.

$$residRBCc = \frac{TRVc}{ELAFr * MPAFrc}$$

$$residRBCnc = \frac{TRVnc}{MPAFrnc}$$

$$acuteRBC = TRVa$$

Where:
residRBCc = Residential risk-based concentration for cancer effects (μg/m^3)
residRBCnc = Residential risk-based concentration for noncancer effects (μg/m^3)
acuteRBC = Short-term risk-based concentration (μg/m^3)
TRVc = Toxicity reference value for cancer effects (μg/m^3)
TRVnc = Toxicity reference value for noncancer effects (μg/m^3)
TRVa = Toxicity reference value for acute effects (μg/m^3)
ELAFr = Early-life adjustment factor, resident child (chemical specific, unitless)
MPAFrc = multipathway adjustment factor, resident cancer (chemical specific, unitless)
MPAFrnc = multipathway adjustment factor, resident noncancer (chemical specific, unitless)

(B) If multipathway or early-life considerations are not relevant for a chemical, MPAF and ELAF adjustments are not included in the calculation of RBCs. The adjustment factors DEQ will use to calculate RBCs are shown in OAR 340-245-8040 Table 4. DEQ will provide details about the establishment of MPAF and ELAF values in an air toxics risk assessment protocol.

(b)(A) Non-residential Chronic RBCs will be calculated based on TRVs. Because chronic TRVs are based on continual exposure, adjustments for exposure time, frequency, and duration will be applied for non-residential exposure. Two additional modifications of the TRV will be required, if appropriate. If a chemical is identified by DEQ to require consideration of exposure pathways other than inhalation, a multipathway adjustment factor will be used. If a chemical is identified by EPA as a carcinogen acting by a mutagenic mode of action, and therefore having greater toxicity during early-life stages, an early-life adjustment factor will be used.

$$nrchildRBCc = \frac{TRVc * childNRAFc}{ELAFnr * MPAFnrc}$$

$$nrchildRBCnc = \frac{TRVnc * childNRAFnc}{MPAFnrnc}$$

$$workerRBCc = \frac{TRVc * worker NRAFc}{MPAFnrc}$$

$$workerRBCnc = \frac{TRVnc * worker NRAFnc}{MPAFnrnc}$$

Where:
nrchildRBCc = Nonresidential child risk-based concentration for cancer effects (μg/m^3)
nrchildRBCnc = Nonresidential child risk-based concentration for noncancer effects (μg/m^3)
workerRBCc = Nonresidential worker risk-based concentration for cancer effects (μg/m^3)
workerRBCnc = Nonresidential worker risk-based concentration for noncancer effects (μg/m^3)
TRVc = Toxicity reference value for cancer effects (μg/m^3)
TRVnc = Toxicity reference value for noncancer effects (μg/m^3)
ELAFnr = Early-life adjustment factor, nonresident child (chemical specific, unitless)
MPAFnrc = multipathway adjustment factor, nonresident cancer (chemical specific, unitless)
MPAFnrnc = multipathway adjustment factor, nonresident noncancer (chemical specific, unitless)
childNRAFc = Nonresident adjustment factor, child cancer (unitless)
childNRAFnc = Nonresident adjustment factor, child noncancer (unitless)
workerNRAFc = Nonresident adjustment factor, worker cancer (unitless)
workerNRAFnc = Nonresident adjustment factor, worker noncancer (unitless)

(B) If multipathway or early-life considerations are not relevant for a chemical, MPAF and ELAF adjustments are not included in the calculation of RBCs. The adjustment factors DEQ will use to calculate RBCs are shown in OAR 340-245-8040 Table 4. DEQ will provide details about the establishment of MPAF and ELAF values in an air toxics risk assessment protocol.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0420

Process for Updating Lists of Regulated Air Toxics and Their Risk-Based Concentrations

(1) Purpose

(a) As industrial practices and toxicological sciences advance, it is important to have rules for Cleaner Air Oregon that allow for air quality regulation to continue to reflect the latest practices and science. The list of pollutants that are regulated and their RBCs represent one area where regulations will need regular updating to accommodate advancing science and practices.

(b) These rules include two lists of air toxics; OAR 340-245-8020 Table 2 contains air toxics that are for emissions reporting only, and OAR 340-245-8050 Table 5 contains air toxics for which RBCs are readily available for regulation as part of air permitting. The purposes of OAR 340-245-8020 Table 2 are to inform prioritization of RBC development and maintain a current and broad understanding of statewide emissions as industries and industrial practices change over

time. The purpose of OAR 340-245-8050 Table 5 is to ensure that impacts to public health from industrial air emissions are minimized.

(2) OAR 340-245-8020 Table 2, Air Toxics Reporting List

(a) The Air Toxics Reporting List is comprised of California Air Resources Board's Toxic Air Contaminant Identification List Appendix A-1, Washington's Table of ASIL, SQER and de minimis emission values, Oregon's Toxics Focus list, and EPA's Hazardous Air Pollutants list.

(b) Every three years starting from the effective date of this rule, DEQ, in consultation with OHA, will review the four lists in subsection (a) for changes and will propose to update the Air Toxics Reporting List in OAR 340-245-8020 Table 2 to capture changes in any of those four lists over the intervening three years.

(c) During the reviews of the Air Toxics Reporting List, DEQ may also propose to add or remove chemicals based on information gathered from past reporting, industry types in Oregon that are not in California or Washington, or OHA's and DEQ's knowledge of air toxics that may be of potential public health concern in Oregon.

(d) DEQ will propose updates to OAR 340-245-8020 through 340-245-8060 Table 2 through 6 through the rulemaking process.

(e) Sources must report emissions of any newly listed air toxic one year after the final effective date of the updated list.

(3) OAR 340-245-8050 Table 5, Risk-Based Concentrations

(a) The list Risk-Based Concentrations is comprised of all air toxics from the Air Toxics Reporting List for which OHA and DEQ were able to find or set RBCs.

(b) Every three years starting from the effective date of this rule, DEQ, in consultation with OHA, will review the air toxics and toxicity reference values published by the authoritative bodies listed in OAR 340-245-0400 for changes since the previous review. DEQ will propose to:

(A) Add air toxics to OAR 340-245-8030 through 340-245-8060 Table 3 through 6 if toxicity reference values have been generated by authoritative bodies listed in OAR 340-245-0400 for air toxics on the Air Toxics Reporting List in OAR 340-245-8020 Table 2 from which RBCs can be set; or

(B) Remove air toxics from OAR 340-245-8030 through 340-245-8060 Tables 3 through 6, as applicable, if all authoritative bodies listed in OAR 340-245-0400 have rescinded toxicity reference values for that toxic air pollutant without providing a replacement.

(c) DEQ will propose updates to OAR 340-245-8030 through 340-245-8060 Tables 3 through 6 through the rulemaking process.

(4) Risk-based concentrations. DEQ will use the RBCs in OAR 340-245-8050 Table 5 in Source Risk Assessments for setting any necessary permit limits to limit cancer or noncancer risk.

(a) DEQ will review RBCs by following the same process that was used to establish the initial list using the hierarchy of authoritative bodies in OAR 340-245-0400 and will include in its review any updates by authoritative bodies in the intervening 3 years since the last review; and

(b) DEQ will propose updates to RBCs through the rulemaking process.

(5) Petitions to update the lists of regulated air toxics to add or remove air toxics from OAR 340-245-8020 Table 2 or revise an RBC in OAR 340-245-8050 Table 5 outside of or by different preference than the hierarchy listed in OAR 340-245-0400.

(a) Any person may request to update an RBC in OAR 340-245-8050 Table 5 by following these procedures:

(A) The request must be made in writing to DEQ;

(B) The request is received by DEQ more than 18 months before the applicable triennial review described in section (2) or (3); and

(C) To be considered, the submission must include either:

(i) Inhalation toxicity reference values established by a federal agency or by another state; or

(ii) Publicly available and peer-reviewed toxicity information for the chemical that demonstrates a quantitative dose-response relationship in human or animal studies from which RBCs could be calculated.

(D) If a chemical being requested for review has no available toxicity information as described in paragraph (C) and is emitted at a rate of at least 1 pound per year in the state of Oregon, then DEQ will put the chemical on a formal “Wait List”, to be held there until toxicity information for that chemical becomes available.

(b) To be considered for addition to the Air Toxics Reporting List in OAR 340-0245-8020 Table 2, the petitioner must provide evidence that:

(A) The chemical is emitted in the state of Oregon at a rate of at least 1 pound per year; and

(B) The chemical is toxic.

(c) Any person may request to remove a toxic air pollutant from the Air Toxics Reporting List in OAR 340-245-8020 Table 2 or the RBC list in OAR 340-245-8050 Table 5 by following these procedures:

(A) The request must be made in writing to DEQ;

(B) The request is received by DEQ more than 18 months before the applicable triennial review described in section (2) or (3); and

(C) To be considered, the submission must demonstrate all authoritative bodies listed in OAR 340-245-0400 have rescinded toxicity reference values for that toxic air pollutant without providing a replacement.

(d) If DEQ receives a request to update an RBC or add or remove an air toxic from the Air Toxics Reporting List in OAR 340-245-8020 Table 2 or the RBC list in OAR 340-245-8050 Table 5 and the request is received less than 18 months before the applicable triennial review described in section (2) or (3), the request will be reviewed during the triennial review in subsection (3)(b).

(e) If DEQ, after consultation with OHA, determines that updates are warranted as a result of a petition, DEQ will propose updates to RBCs or additions or removals of air toxics to the Air Toxics Reporting List in OAR 340-245-8020 Table 2 or the RBC list in OAR 340-245-8050 Table 5 through the rulemaking process.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

340-245-0500

Cleaner Air Oregon Fees

(1) Any person required to obtain an Oregon Title V Operating Permit under OAR 340 division 218 must submit the annual CAO base fee as specified in OAR 340-220-0050(4) to DEQ.

(2) Any person required to obtain a Basic, General, Simple or Standard ACDP under OAR 340 division 216 must submit the annual CAO base fee to DEQ as specified in OAR 340-216-8030.

(3) Any person required to obtain an Air Toxics Permit Attachment must also submit the Air Toxics Permit Attachment fees specified in OAR 340-216-8030 to DEQ.

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155
Stats. Implemented: ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, and 468A.155

Revised Colored Art Glass Manufacturing Facility Rules

[NOTE: Application of these rules is subject to OAR 340-244-8990.]

340-2454-9000

Colored Art Glass Manufacturing Facility Rules; Applicability and Jurisdiction

Notwithstanding OAR 340 division 246, OAR 340-2454-9000 through 340-245-90905 apply to all facilities in the state of Oregon that:

(1) Manufacture glass from raw materials, or a combination of raw materials and cullet, for:

(a) Use in art, architecture, interior design and other similar decorative applications, or

(b) Use by glass manufacturers for use in art, architecture, interior design and other similar decorative applications; and

(2) Manufacture 5 tons per year or more of glass using raw materials that contain glassmaking HAPs.

(3) Subject to the requirements in this division and OAR 340-200-0010(3), LRAPA is designated by the EQC to implement OAR 340-2445-9000 through 90950 within its area of jurisdiction.

NOTE: This rule was moved verbatim from OAR 340-244-9000 and amended.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9000

340-2454-9010

Colored Art Glass Manufacturing Facility Rules; Definitions

The definitions in OAR 340-200-0020 and this rule apply to OAR 340-2454-9000 through 90950. If the same term is defined in this rule and 340-200-0020, the definition in this rule applies to this division.

(1) "Colored Art Glass Manufacturer" or "CAGM" means a facility that meets the applicability requirements in OAR 340-2454-9000 and refers to the owner or operator of such a facility when the context requires.

(2) “Chromium III” means chromium in the +3 oxidation state, also known as trivalent chromium.

(3) “Chromium VI” means chromium in the +6 oxidation state, also known as hexavalent chromium.

(4) “Chromium”, without a following roman numeral, means total chromium.

(5) “Controlled” means the glassmaking furnace emissions are treated by an emission control device approved by DEQ.

(6) “Cullet” means pieces of finished glass that, when mixed with raw materials and charged to a glassmaking furnace, is used to produce new glass. Cullet does not include frit as defined in subsection (9)(a). Cullet is not considered to be a raw material.

(7) “Emission control device” means control device as defined in OAR 340 Division 200.

(8) “Finished glass” means the final glass product that results from melting and refining materials in a glassmaking furnace. Finished glass that has been remelted without the addition of raw materials is still finished glass.

(9) “Frit” means both of the following:

(a) Granules of glassified or vitrified material that is not made from finished glass, and which contains a higher proportion of glassmaking HAP than would be found in a finished glass. The purpose of such material includes, but is not limited to, making powdered glassmaking HAPs safer to handle by combining them with silica or other oxides.

(b) Granules of crushed finished glass.

(10) “Glassmaking furnace” means a refractory-lined vessel in which raw materials are charged and melted at high temperature to produce molten glass.

(11) “Glassmaking HAP” means arsenic, cadmium, chromium, lead, manganese, nickel or selenium in any form, such as the pure chemical element, in compounds or mixed with other materials.

(12) “Raw material” means:

(a) Substances that are intentionally added to a glass manufacturing batch and melted in a glassmaking furnace to produce glass, including but not limited to:

(A) Minerals, such as silica sand, limestone, and dolomite;

(B) Inorganic chemical compounds, such as soda ash (sodium carbonate), salt cake (sodium sulfate), and potash (potassium carbonate);

(C) Oxides and other compounds of chemical elements, such as lead oxide, chromium oxide, and sodium antimonate; and

(D) Ores of chemical elements, such as chromite and pyrolusite.

(b) Glassmaking HAPs that are naturally-occurring trace constituents or contaminants of other substances are not considered to be raw materials.

(c) Raw material includes materials that contain glassmaking HAPs in amounts that materially affect the properties of the finished product, such as its color, texture or bubble content. Such materials may be powdered, frit, or in some other form. For the purpose of this definition, frit as described in subsection (9)(a) is a raw material, but frit as described in subsection (9)(b) is not a raw material.

(d) Cullet and material that is recovered from a glassmaking furnace control device for recycling into the glass formulation are not considered to be raw materials.

(13) "Tier 1 CAGM" means a CAGM that produces at least 5 tons per year, but less than 100 tons per year, of glass using raw materials that contain glassmaking HAPs in glassmaking furnaces that are only electrically heated.

(14) "Tier 2 CAGM" means:

(a) A CAGM that produces 5 tons per year or more of glass using raw materials that contain glassmaking HAPs in glassmaking furnaces, at least one of which is fuel-heated or combination fuel- and electrically-heated; or

(b) Produces 100 tons per year or more of glass using raw materials that contain glassmaking HAPs in any type of glassmaking furnace.

(15) "Uncontrolled" means the glassmaking furnace emissions are not treated by an emission control device approved by DEQ.

(16) "Week" means Sunday through Saturday.

NOTE: This rule was moved verbatim from OAR 340-244-9010 and amended.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9010

340-2454-9015

Colored Art Glass Manufacturing Facility Rules; Compliance Extensions

A Tier 1 CAGM may request, and DEQ may grant, one or more extensions, not to exceed a total of 12 months, to the compliance date for installation of emission control systems if the CAGM cannot meet the compliance date for reasons beyond its reasonable control. A Tier 1 CAGM that has been granted an extension:

(1) Is allowed to operate without the emission control device required by OAR 340-224-9050 until the required emission control device is installed and operational, or the extension expires, whichever is earlier; and

(2) Must comply with OAR 340-2454-9020 and 340-245-9060(1) as applicable.

NOTE: This rule was moved verbatim from OAR 340-244-9015 and amended.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9015

340-2454-9020

Colored Art Glass Manufacturing Facility Rules; Permit Required

(1) Not later than December 1, 2016, if located within the Portland AQMA, and not later than April 1, 2017, if located outside the Portland AQMA, all CAGMs not otherwise subject to a permitting requirement must apply for a permit under OAR 340-216-8020 Table 2, Part B, category #84.

(2) A CAGM that applies for a permit on or before the required date is not in violation of OAR 340-216-0020(3).

(3) CAGMs constructed after September 1, 2016 must obtain a permit prior to construction.

NOTE: This rule was moved verbatim from OAR 340-244-9020 and amended.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9020

340-2454-9030

Colored Art Glass Manufacturing Facility Rules; Requirements That Apply To Tier 2 CAGMs

(1) Tier 2 CAGMs located within the Portland AQMA may not use raw materials containing arsenic, cadmium, chromium, lead, manganese or nickel except in glassmaking furnaces that use an emission control device that meets the requirements of OAR 340-2454-9070.

(2) Effective January 1, 2017, Tier 2 CAGMs located within the Portland AQMA may not use raw materials containing selenium except in glassmaking furnaces that use an emission control device that meets the requirements of OAR 340-2454-9070.

(3) Tier 2 CAGMs located outside the Portland AQMA may not use raw materials containing arsenic, cadmium or chromium VI except in glassmaking furnaces that use an emission control device that meets the requirements of OAR 340-2454-9070.

(4) Effective April 1, 2017, Tier 2 CAGMs located outside the Portland AQMA may not use raw materials containing chromium, lead, manganese, nickel or selenium except in glassmaking furnaces that use an emission control device that meets the requirements of OAR 340-2454-9070.

NOTE: This rule was moved verbatim from OAR 340-244-9030 and amended.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9030

340-2454-9040

Colored Art Glass Manufacturing Facility Rules; Operating Restrictions That Apply To Tier 2 CAGMs

(1) Subject to the limitations in OAR 340-2454-9030, and except as allowed in section (2), Tier 2 CAGMs may use raw materials containing chromium in glassmaking furnaces only if the CAGM has complied with OAR 340-245-xxxx through yyyy (CAO rules)DEQ has established annual and daily maximum allowable chromium usage rates that will prevent the source from exceeding the chromium VI source impact levels described in paragraph (3)(b)(C) of this rule.

(2) Notwithstanding section (1) and OAR 340-2454-9030(1), (3) and (4), raw materials containing chromium may be used in glassmaking furnaces for the purpose of conducting the any emissions testing necessary to comply with OAR 340-245-xxxx through yyyy (CAO rules)under sections (3) or (4). Such use must be limited to only the amounts needed to perform the testing.

~~(3) After DEQ establishes any maximum allowable chromium III or chromium VI usage rate for a CAGM's glassmaking furnace or glassmaking furnaces, the CAGM must comply with the rates DEQ establishes. For the purpose of establishing any maximum allowable usage rate for chromium III or chromium VI, the following are required:~~

~~(a) A source test must be performed as specified below:~~

~~(A) Test using DEQ-approved protocols and methods for total chromium, or total chromium and chromium VI, and submit a source test plan detailing the approach to DEQ for approval;~~

~~(B) Test at the outlet of an uncontrolled glassmaking furnace, or at the outlet of the emission control device on a controlled glassmaking furnace;~~

~~(C) Test while making a glass that DEQ agrees is made under the most oxidizing combustion conditions and that contains a high percentage of the type of chromium for which a usage rate is being established, as compared to other formulas used by the CAGM;~~

~~(D) Keep records of the amount of chromium, by type, used in the formulations that are produced during the source test runs, as well as other operational parameters identified in the source test plan; and~~

~~(E) If the testing under this section is done for total chromium only, the CAGM must assume that all chromium emitted is in the form of chromium VI.~~

~~(b) The Tier 2 CAGM must perform dispersion modeling, using models and protocols approved by DEQ, to determine the annual average and daily maximum ambient concentrations that result from the Tier 2 CAGM's air emissions as follows:~~

~~(A) Submit a modeling protocol for DEQ approval;~~

~~(B) Use the maximum chromium VI emission rate;~~

~~(C) Establish a maximum chromium usage rate so that the source impact will not exceed either of the following:~~

~~(i) An annual acceptable source impact level for chromium VI concentration of 0.08 nanograms per cubic meter at the nearest sensitive receptor approved by DEQ. Sensitive receptors include, but are not limited to: residences, hospitals, schools, daycare facilities, elderly housing and convalescent facilities; and~~

~~(ii) A daily acceptable source impact level for chromium VI concentration of 5 nanograms per cubic meter at any off-site modeled receptor.~~

~~(c) Each Tier 2 CAGM must keep daily records of all glass formulations produced and, until such time as the Tier 2 CAGM has installed all emission control devices required under OAR~~

~~340-244-9030, provide to DEQ a weekly report of the daily amount of each glassmaking HAP used.~~

~~(4) Tier 2 CAGMs may apply source testing protocols equivalent to those in subsection (3)(a) to the use of chromium VI in a glassmaking furnace to establish maximum usage rates for chromium VI in controlled glassmaking furnaces that will prevent the source impact from exceeding an annual acceptable source impact level of 0.08 nanograms per cubic meter and a daily acceptable source impact level of 5 nanograms per cubic meter.~~

(3~~5~~) Tier 2 CAGMs are not restricted on the raw materials that may be used in glassmaking furnaces that are controlled by an emission control device approved by DEQ, except that the use of raw materials containing chromium is~~will be~~ subject to sections (1) and (2)~~maximum usage rates established by DEQ~~.

NOTE: This rule was moved verbatim from OAR 340-244-9040 and amended.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9040

340-245~~4~~-9050

Colored Art Glass Manufacturing Facility Rules; Requirements That Apply To Tier 1 CAGMs

(1) No later than October 1, 2016, if located within the Portland AQMA, and April 1, 2017, if located outside the Portland AQMA, each Tier 1 CAGM must comply with subsection (a)~~, (b)~~ or (b~~c~~) for each glassmaking furnace or group of glassmaking furnaces that use raw material containing arsenic, cadmium, chromium, lead, manganese or nickel:

(a) Install an emission control device that meets the emission control device requirements in OAR 340-245~~4~~-9070; or

~~(b) Demonstrate that the glassmaking furnace or group of glassmaking furnaces meets the exemption in section (3) for arsenic, cadmium, chromium, lead, manganese or nickel; or~~

(b~~c~~) Request a permit condition that prohibits the use of arsenic, cadmium, chromium, lead, manganese or nickel in the glassmaking furnace or group of glassmaking furnaces, and comply with that condition.

(2) No later than January 1, 2017, if located within the Portland AQMA, and April 1, 2017, if located outside the Portland AQMA, each Tier 1 CAGM must comply with subsection (a)~~, (b)~~ or (b~~c~~) for each glassmaking furnace or group of glassmaking furnaces that use raw material containing selenium:

(a) Install an emission control device that meets the emission control device requirements in OAR 340-2454-9070; or

~~(b) Demonstrate that the glassmaking furnace or group of glassmaking furnaces meets the exemption in section (3) for selenium; or~~

(b~~c~~) Request a permit condition that prohibits the use of selenium in the glassmaking furnace or group of glassmaking furnaces, and comply with that condition.

~~(3) A Tier 1 CAGM is exempt from the requirement to install emission controls under subsections (1)(a) or (2)(a) on a glassmaking furnace or group of glassmaking furnaces if that CAGM meets the requirements of subsection (a) for each of the individual glassmaking HAPs listed in paragraphs (a)(A) through (a)(G) below. This exemption is not allowed for a glassmaking furnace or group of glassmaking furnaces that use raw materials containing chromium VI.~~

~~(a) The CAGM shows through source testing and dispersion modeling if necessary, following the requirements of subsections (b) and (c), that the glassmaking HAP concentrations modeled at the nearest sensitive receptor do not exceed the applicable concentration listed in paragraphs (A) through (G). For chromium VI resulting from the use of chromium III, the CAGM may source test for and model chromium VI, or may source test for and model total chromium in lieu of chromium VI, to demonstrate that the ambient concentration is below the concentration listed in paragraph (C). If the modeled total chromium ambient concentration exceeds the concentration listed in paragraph (C), then the CAGM may conduct an additional source test to measure chromium VI and model to show that the ambient concentration of chromium VI does not exceed the concentration listed in paragraph (C).~~

~~(A) Arsenic, 0.2 nanograms per cubic meter annual average;~~

~~(B) Cadmium, 0.6 nanograms per cubic meter annual average;~~

~~(C) Chromium VI, 0.08 nanograms per cubic meter annual average;~~

~~(D) Lead, 15 nanograms per cubic meter annual average;~~

~~(E) Manganese, 90 nanograms per cubic meter annual average;~~

~~(F) Nickel, 4 nanograms per cubic meter annual average;~~

~~(G) Selenium, at a concentration that the CAGM demonstrates to the satisfaction of the Director is adequate to protect members of the public from suffering adverse health effects. The Director shall consult with the Oregon Health Authority when considering whether a proposed concentration will be adequately protective.~~

~~(b) Source testing for the purpose of demonstrating the exemption in this section must be performed as follows:~~

~~(A) Test using DEQ-approved protocols and methods for each glassmaking HAP listed in paragraphs (a)(A) through (a)(G) that the Tier 1 CAGM intends to use.~~

~~(B) Test for particulate matter using DEQ Method 5 or equivalent; HAPs using EPA Method 29, CARB Method M-436 or an equivalent method approved by DEQ; and if the Tier 1 CAGM chooses, chromium VI using a method approved by DEQ.~~

~~(C) Submit a source test plan to DEQ for approval at least 30 days before the test date.~~

~~(D) For each glassmaking HAP to be tested for, test while making a glass formulation that DEQ agrees has the highest potential emissions of that glassmaking HAP. More than one source test may be required if a single glass formulation cannot meet this requirement for all glassmaking HAPs to be tested for.~~

~~(E) Keep records of the amount of each glassmaking HAP regulated under this rule used in the formulations that are produced during the source test runs, as well as other operational parameters identified in the source test plan.~~

~~(c) Dispersion modeling for the purpose of demonstrating the exemption in this section is not required for any glassmaking HAP that the source testing under subsection (b) shows is not greater than the applicable concentration listed in paragraphs (a)(A) through (a)(G); otherwise, dispersion modeling must be performed as follows:~~

~~(A) Submit a modeling protocol for DEQ approval;~~

~~(B) Use the EPA-approved model AERSCREEN or other EPA-approved model;~~

~~(C) Use the maximum emission rate for each glassmaking HAP to be modeled as determined by the source testing required by subsection (b); and~~

(D) Model the ambient concentration at the nearest sensitive exposure location approved by DEQ. Sensitive exposure locations include, but are not limited to: residences, hospitals, nursing homes, and long-term care facilities ~~hospitals, schools, daycare facilities, elderly housing~~ and convalescent facilities.

NOTE: This rule was moved verbatim from OAR 340-244-9050 and amended.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9050

340-2454-9060

Colored Art Glass Manufacturing Facility Rules; Operating Restrictions That Apply To Tier 1 CAGMs

(1) Tier 1 CAGMs may not use raw materials that contain chromium VI in any uncontrolled glassmaking furnace.

(2) Tier 1 CAGMs are not restricted on the raw materials that may be used in glassmaking furnaces that are controlled by an emission control device approved by DEQ.

NOTE: This rule was moved verbatim from OAR 340-244-9060 and amended.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9060

340-2454-9070

Colored Art Glass Manufacturing Facility Rules; Emission Control Device Requirements

(1) CAGMs must comply with the requirements in subsection (a) or (b), as applicable, for each emission control device used to comply with this rule.

(a) Tier 1 CAGMs must comply with one of the requirements in paragraphs (A), (B) or (C):

(A) Conduct a source test as required under section (3) and demonstrate that the emission control device does not emit particulate matter in excess of 0.005 grains per dry standard cubic foot as measured by EPA Method 5 or an equivalent method approved by DEQ.

(B) If the emission control system is a fabric filter (baghouse), install a bag leak detection system that meets the requirements of section (4).

(C) If the emission control system is a fabric filter (baghouse), install an afterfilter that meets the requirements of section (5).

(b) Tier 2 CAGMs must:

(A) Conduct a source test as required under section (3) and demonstrate that the emission control device does not emit particulate matter in excess of 0.005 grains per dry standard cubic foot as measured by EPA Method 5 or an equivalent method approved by DEQ; and

(B) If a fabric filter (baghouse) is used, install either a bag leak detection system that meets the requirements of section (4) or an afterfilter that meets the requirements of section (5).

(2) Emission control device requirements:

(a) A CAGM must obtain DEQ approval of the design of all emission control devices before installation, as provided in this rule.

(b) A CAGM must submit a Notice of Intent to Construct as required by OAR 340-210-0205 through 340-210-0250 no later than 15 days before the date installation begins. If DEQ does not deny or approve the Notice of Intent to Construct within 10 days after receiving the Notice, the Notice will be deemed to be approved.

(c) Emission control devices may control emissions from more than one glassmaking furnace.

(d) Each emission control device must be equipped with the following monitoring equipment:

(A) An inlet temperature monitoring device;

(B) A differential pressure monitoring device if the emission control device is a baghouse; and

(C) Any other monitoring device or devices specified in DEQ's approval of the Notice of Intent to Construct.

(e) Each emission control device must be equipped with inlet ducting that provides the following:

(A) Sufficient cooling of exhaust gases to no more than the maximum design inlet temperature under worst-case conditions; and

(B) Provision for inlet emissions testing, including sufficient duct diameter, sample ports, undisturbed flow conditions, and access for testing.

(f) Each emission control device must be equipped with outlet ducting that provides for outlet emissions testing, including sufficient duct diameter, sample ports, undisturbed flow conditions, and access for testing.

(g) After commencing operation of any emission control device, the CAGM must monitor the emission control device as required by OAR 340-2454-9080.

(3) If source testing is conducted under section (1), the CAGM must perform the following source testing on at least one emission control device. Source testing done under OAR 340-2454-9040(3)(a) may be used in whole or in part to comply with this requirement.

(a) Within 60 days of commencing operation of the emission control devices, test control device outlet for particulate matter using DEQ Method 5 or equivalent method;

(b) The emission control device to be tested must be approved by DEQ;

(c) A source test plan must be submitted at least 30 days before conducting the source test; and

(d) The source test plan must be approved by DEQ before conducting the source test.

(4) If a bag leak detection system is installed under section (1), the requirements for the bag leak detection system are:

(a) The bag leak detection system must be installed and operational as soon as possible but not more than 90 days after the baghouse becomes operational or 90 days after the effective date of the rule, whichever is later.

(b) Each bag leak detection system must meet the specifications and requirements in paragraphs (A) through (H).

(A) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 1 milligram per dry standard cubic meter (0.00044 grains per actual cubic foot) or less.

(B) The bag leak detection system sensor must provide output of relative PM loadings. The owner or operator must continuously record the output from the bag leak detection system using electronic or other means (e.g., using a strip chart recorder or a data logger).

(C) The bag leak detection system must be equipped with an alarm system that will sound when the system detects an increase in relative particulate loading over the alarm set point established according to paragraph (D), and the alarm must be located such that it can be heard by the appropriate plant personnel.

(D) In the initial adjustment of the bag leak detection system, the CAGM must establish, at a minimum, the baseline output by adjusting the sensitivity (range) and the averaging period of the device, the alarm set points, and the alarm delay time.

(E) Following initial adjustment, the CAGM may not adjust the averaging period, alarm set point, or alarm delay time without approval from DEQ except as provided in paragraph (F).

(F) Once per quarter, the CAGM may adjust the sensitivity of the bag leak detection system to account for seasonal effects, including temperature and humidity, according to the procedures identified in the site-specific monitoring plan required by OAR 340-224-9080(4).

(G) The CAGM must install the bag leak detection sensor downstream of the fabric filter.

(H) Where multiple bag leak detectors are required, the system's instrumentation and alarm may be shared among detectors.

(5) If an afterfilter is installed under section (1), the requirements for the afterfilter are:

(a) The afterfilter must be installed and operational as soon as possible but not more than 120 days after the baghouse becomes operational or 120 days after the effective date of the rule, whichever is later;

(b) The afterfilter must filter the entire exhaust flow from the fabric filter (baghouse); and

(c) The afterfilter must be equipped with:

(A) HEPA filters that have a Minimum Efficiency Reporting Value of 17 (MERV 17) or higher per American National Standards Institute (ANSI) Standard 52.2; and

(B) A differential pressure monitoring device.

NOTE: This rule was moved verbatim from OAR 340-244-9070 and amended.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 6-2016(Temp), f. & cert. ef. 5-6-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9070

340-2454-9080

Colored Art Glass Manufacturing Facility Rules; Emission Control Device Monitoring

(1) Each Tier 1 CAGM must perform the following monitoring on each emission control device it uses to comply with this rule:

(a) At least once each week, observe and record the inlet temperature and the fabric filter (baghouse) differential pressure and afterfilter differential pressure (as applicable); and

(b) At least once every 12 months:

(A) Inspect the ductwork and emission control device housing for leakage;

(B) Inspect the interior of the emission control device for structural integrity and, if a fabric filter (baghouse) is used, to determine the condition of the fabric filter; and

(C) Record the date, time and results of the inspection.

(2) Each Tier 2 CAGM must perform the following monitoring on each emission control device used to comply with this rule:

(a) At least once each day, observe and record the inlet temperature and the fabric filter (baghouse) differential pressure and afterfilter differential pressure (as applicable); and

(b) At least once every 12 months:

(A) Inspect the ductwork and emission control device housing for leakage;

(B) Inspect the interior of the emission control device for structural integrity and, and if a fabric filter (baghouse) is used, to determine the condition of the fabric filter; and

(C) Record the date, time and results of the inspection.

(3) CAGMs must observe and record any parameters specified in a DEQ approval of the Notice of Intent to Construct applicable to a control device.

(4) If a bag leak detection system is used, the CAGM must develop and submit to DEQ for approval a site-specific monitoring plan for each bag leak detection system. The CAGM must operate and maintain the bag leak detection system according to the site-specific monitoring plan at all times. Each monitoring plan must describe the items in subsections (a) through (f).

(a) Installation of the bag leak detection system;

(b) Initial and periodic adjustment of the bag leak detection system, including how the alarm set-point will be established;

(c) Operation of the bag leak detection system, including quality assurance procedures;

(d) How the bag leak detection system will be maintained, including a routine maintenance schedule and spare parts inventory list;

(e) How the bag leak detection system output will be recorded and stored; and

(f) Corrective action procedures as specified in section (5). In approving the site-specific monitoring plan, DEQ may allow owners and operators more than 3 hours to alleviate a specific condition that causes an alarm if the owner or operator identifies in the monitoring plan this specific condition as one that could lead to an alarm, adequately explains why it is not feasible to alleviate this condition within 3 hours of the time the alarm occurs, and demonstrates that the requested time will ensure alleviation of this condition as expeditiously as practicable.

(5) For each bag leak detection system, the CAGM must initiate procedures to determine the cause of every alarm within 1 hour of the alarm. Except as provided in subsection (4)(f), the CAGM must alleviate the cause of the alarm within 3 hours of the alarm by taking all necessary corrective actions. Corrective actions may include, but are not limited to the following:

(a) Inspecting the fabric filter for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in PM emissions;

(b) Sealing off defective bags or filter media;

(c) Replacing defective bags or filter media or otherwise repairing the control device;

(d) Sealing off a defective fabric filter compartment;

(e) Cleaning the bag leak detection system probe or otherwise repairing the bag leak detection system; and

(f) Shutting down the process producing the PM emissions.

(6) For each bag leak detection system, the CAGM must keep the following records:

(a) Records of the bag leak detection system output;

(b) Records of bag leak detection system adjustments, including the date and time of the adjustment, the initial bag leak detection system settings, and the final bag leak detection system settings; and

(c) The date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, the cause of the alarm, an explanation of the actions taken, the date and time the cause of the alarm was alleviated, and whether the alarm was alleviated within 3 hours of the alarm.

NOTE: This rule was moved verbatim from OAR 340-244-9080 and amended.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040
Stats. Implemented: ORS 468A.025, & 468A.040
Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9080

~~340-244-9090~~

~~Colored Art Glass Manufacturing Facility Rules; Other Glassmaking HAPs~~

~~(1) If DEQ determines that ambient concentrations of a glassmaking HAP in the area of a CAGM pose an unacceptable risk to human health and that emissions from a glassmaking furnace at the CAGM are a contributing factor, then DEQ must set a limit on the CAGM's use of the glassmaking HAP of concern, by agreement or in a permit, to reduce such risk. DEQ must consult with the Oregon Health Authority when applying this rule.~~

~~(2) Exceeding the limits established under the authority of this rule is a violation of this rule.~~

~~Stat. Auth.: ORS 468.020, 468A.025, & 468A.040~~
~~Stats. Implemented: ORS 468A.025, & 468A.040~~

~~Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16~~