



State of Oregon Department of Environmental Quality

Oregon Environmental Quality Commission meeting

Jan. 21-22, 2021

Rulemaking, Action Item C Air Quality Rules to Address Federal Regulations 2020

Table of Contents

DEQ Recommendation to EQC.....	2
Introduction	3
Statement of Need	5
Rules Affected, Authorities, Supporting Documents.....	8
Fee Analysis.....	10
Statement of Fiscal and Economic Impact	11
Federal Relationship	15
Land Use.....	16
EQC Prior Involvement.....	17
Advisory Committee	18
Public Engagement	19
Implementation.....	28
Five-Year Review.....	30
Accessibility Information.....	31
Summary Tables of Proposed Revisions	32

DEQ Recommendation to EQC

DEQ recommends that the Environmental Quality Commission:

- Adopt the proposed rules seen in Attachment A as part of Chapter 340 of the Oregon Administrative Rules; and
- Approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and
- Direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.

Proposed motion language:

“I move that the Oregon Environmental Quality Commission

- *Adopt the proposed rules seen in Attachment A as part of Chapter 340 of the Oregon Administrative Rules; and*
- *Approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and*
- *Direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.”*

Introduction

DEQ proposes rules to adopt newly amended federal air quality regulations and remove duplicative rules applicable to Colored Art Glass Manufacturing facilities. This includes:

- Adopting newly amended federal standards mostly by reference; and
- Removing duplicative Colored Art Glass Manufacturing rules from Division 244 that have been adopted in Division 245.

Brief history

The federal Clean Air Act requires the U.S. Environmental Protection Agency to establish National Emission Standards for Hazardous Air Pollutants, known as NESHAPs, for both major and area sources of hazardous air pollutants. EPA finished establishing major source standards in 2004. EPA began establishing area source standards in 2006 and concluded in 2011. EPA may adopt additional NESHAPs in the future for new source categories or source categories it may have missed.

The Clean Air Act also requires EPA to develop New Source Performance Standards for categories of sources that cause or significantly contribute to air pollution that may endanger public health or welfare. Such regulations apply to each new source within a category without regard to source location or existing air quality.

EPA performs a residual risk analysis for major source NESHAPs and periodic technology reviews for New Source Performance Standards and NESHAPs. These reviews are ongoing and in most cases result in EPA updating the applicable regulation, sometimes with only minor changes. EPA also revises NESHAPs to address errors, implementation issues and lawsuits.

In this rulemaking, DEQ proposes to adopt federal standards for 30 source categories that EPA has updated or amended since July 2018.

Rules to address a regulatory gap associated with emissions from Colored Art Glass Manufacturing facilities were adopted into Oregon Administrative Rules Chapter 340 Division 244. These rules were intended to be an interim measure as this gap was expected to be addressed through the implementation of Cleaner Air Oregon within OAR Chapter 340 Division 245. That implementation did occur and, as the requirements within both divisions address CAGM facilities in the same manner, DEQ proposes to remove the duplicative rules that remain within Division 244.

Adopting federal regulations mostly by reference and removing duplicative rules that are contained within two separate rule divisions could both be classified as ‘housekeeping’ measures. This term, as used by the EQC during the last NESHAP action item in July 2019, remains an appropriate descriptor for this rulemaking considering the significant similarities between the two.

Regulated parties

This rulemaking regulates facilities subject to modified NESHAPs and New Source Performance

Standards are outlined in the Statement of Need, below.

Request for other options

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rules' substantive goals while reducing the rules' potential negative economic impact on business.

Statement of Need

What need would the proposed rule address?

The proposed rules would address federal revisions that are different than state standards. EPA revised several standards since EQC's previous adoption of federal standards. Not adopting the most recent version of federal standards impacts Oregon businesses, because they may be subject to two different standards: the revised federal standards and the outdated state standards. Not adopting the most recent version of the federal standards also impacts the public and the environment, because for most facilities DEQ cannot enforce federal standards not yet adopted by EQC, which may address clarifications, revised work practices, new monitoring requirements, and similar changes.

Oregon does not have rules to implement amendments and recent changes to the following federal standards:

40 C.F.R. part 61 and 63 NESHAP standards:		
Subpart	Industry/Category	Approximate No. of Sources
A	General Provisions	*
AAAA	Municipal Solid Waste Landfills	5
CC	Petroleum Refineries	0
DDDD	Plywood and Composite Wood Products Manufacture	17
DDDDD	Industrial, Commercial and Institutional Boilers and Process Heaters	19
GGGG	Solvent Extraction for Vegetable Oil Production	0
HHHH	Wet Formed Fiberglass Mat Production	0
KKKK	Metal Can (Surface Coating)	0
KKKKK	Clay Ceramics Manufacturing	0
LLL	Portland Cement Manufacturing	1
LLLLL	Asphalt Processing & Asphalt Roofing Manufacturing	0
NNNN	Large Appliances (Surface Coating)	0
NNNNN	Hydrochloric Acid Production	0
OOO	Manufacture of Amino/Phenolic Resins	1
OOOO	Fabric Printing, Coating and Dyeing	0
PPPPP	Engine Test Cells/Stand	0
QQQQ	Wood Building Products (Surface Coating)	7
QQQQQ	Friction Products Manufacturing	0
RRRR	Metal Furniture (Surface Coating)	0
SSSS	Metal Coil (Surface Coating) Industry	0
TTTT	Leather Finishing Operations	0
UUU	Petroleum Refineries-Catalytic Cracking, Catalytic Reforming & Sulfur Plant Units	0
VVVV	Boat Manufacturing	1
WWWW	Reinforced Plastics Composites Production	7
YYYY	Combustion Turbines	1

40 C.F.R. part 60 NSPS standards:		
Subpart	Industry/Category	Approximate No. of Sources
A	General Provisions	*
CCCC	Commercial and Industrial Solid Waste Incineration Units	0
III	Stationary Compression Ignition Internal Combustion Engines	62
WWW	Municipal Solid Waste Landfills	7
XXX	Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification after July 17, 2014	0

Note: Most sources subject to one or more of the above-listed federal regulations are also subject to some, or all, of the general provisions (Subpart 'A') for the applicable C.F.R. part (60, 61, or 63).

DEQ has reviewed EPA's promulgations for the above referenced regulations and determined that all but one of the final changes retain or improve the level of protection of public health and the environment as defined in Oregon as baseline federal standards. Baseline federal standards are defined in the Oregon legislature's House Bill 2250 as the "standards and requirements [that] were in effect on Jan. 19, 2017." One federal change (NESHAP OOO for the Manufacture of Amino/Phenolic Resins) allows for an increased emission rate for specific process vents. DEQ's draft rules address this by adopting the regulation by reference and providing replacement language for the specific provision that allows the increase.

In addition, DEQ is not proposing to adopt updated federal regulations applicable to 'Coal- and Oil-Fired Electric Utility Steam Generating Units' found at 40 C.F.R. part 63 subpart UUUUU. The promulgations for this subpart have the potential to be significantly less protective of public health, the environment, or natural resources and may be addressed in a future EQC proposal and DEQ rulemaking.

The rules would also address duplicative rules regarding Colored Art Glass Manufacturing facilities. Rules applicable to CAGM facilities were put into place within Division 244 to address these sources while the Cleaner Air Oregon rules (Division 245) were in development. The final rules adopted in Division 245 establish standards and requirements for CAGM facilities and the rules within Division 244 are now redundant standards and requirements. As the CAGM requirements are covered in Division 245, the removal of these rules from Division 244 does not lessen the requirements for CAGM facilities or allow increases of emissions, and is administrative in nature.

How would the proposed rule address the need?

The proposed rules would update Oregon rules to reflect amended federal standards. This would advance DEQ's work to protect Oregonians from toxic pollutants by updating state rules to be consistent with updated and revised federal rules. DEQ proposes adopting revised federal standards by reference with one modification to NESHAP OOO, as identified above.

The proposed rules would remove duplicative rules applicable to Colored Art Glass Manufacturing facilities. DEQ proposes removing rules from Division 244 that are substantively similar to CAGM rules established within Division 245.

How will DEQ know the rule addressed the need?

If adopted, DEQ will submit the rules to EPA to update Oregon's New Source Performance Standard and NESHAP delegation. EPA will then review and take action to approve these updates as part of DEQ's delegation to administer Oregon's New Source Performance Standards and NESHAP program. Once that delegation is updated, DEQ becomes the primary implementing authority in Oregon.

DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and when Colored Art Glass Manufacturing facilities do not have multiple rule divisions establishing substantively similar requirements.

Rules Affected, Authorities, Supporting Documents

Lead division

Air Quality

Program or activity

Air Operations

Chapter 340 action

Amend		
Division	Rule	Title
200	0035	Reference Materials
200	0040	State of Oregon Clean Air Act Implementation Plan
238	0040	Definitions
244	0030	Definitions
244	0220	Emission Standards: Federal Regulations Adopted by Reference
Repeal		
Division	Rule	Title
244	8990	CAGM Rules Savings Provision
244	9000	Colored Art Glass Manufacturing Facility Rules: Applicability and Jurisdiction
244	9010	Colored Art Glass Manufacturing Facility Rules: Definitions
244	9015	Colored Art Glass Manufacturing Facility Rules; Compliance Extensions
244	9020	Colored Art Glass Manufacturing Facility Rules: Permit Required
244	9030	Colored Art Glass Manufacturing Facility Rules: Requirements That Apply To Tier 2 CAGMs
244	9040	Colored Art Glass Manufacturing Facility Rules: Operating Restrictions That Apply To Tier 2 CAGMs
244	9050	Colored Art Glass Manufacturing Facility Rules: Requirements That Apply To Tier 1 CAGMs
244	9060	Colored Art Glass Manufacturing Facility Rules: Operating Restrictions That Apply To Tier 1 CAGMs
244	9070	Colored Art Glass Manufacturing Facility Rules: Emission Control Device Requirements

244	9080	Colored Art Glass Manufacturing Facility Rules: Emission Control Device Monitoring
244	9090	Colored Art Glass Manufacturing Facility Rules: Other Glassmaking HAPs

Statutory Authority - ORS				
468.020	468.065	468A.025	468A.035	468A.040
468A.050	468A.310	468A		

Statutes Implemented - ORS				
468.020	468A.025	468A.035	468A.040	468A.050
468A.310	468A.135			

Documents relied on for rulemaking

Document title	Document location
Code of Federal Regulations	http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR
Federal Register	http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR
House Bill 2250	https://olis.leg.state.or.us/liz/2019R1/Measures/Overview/HB2250
Oregon Administrative Rules	https://www.oregon.gov/deq/Regulations/Pages/Administrative-Rules.aspx
Oregon Revised Statutes	https://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx

Fee Analysis

This rulemaking does not involve fees.

Statement of Fiscal and Economic Impact

Fiscal and economic impact

EPA evaluates the impacts of new federal standards when promulgated and lists them in the regulation's preamble or in the docket associated with the rulemaking. The fiscal and economic impacts of the new federal standards included in this rulemaking have already occurred based on the applicability date within each regulation because sources have to comply with the federal regulations regardless of the EQC's adoption. Therefore, DEQ's evaluation of the fiscal and economic impact is focused on the potential impacts of the adoption of these state rules.

The list of amended National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards includes links to the federal register where the changes were published. The federal register publication includes further information regarding EPA's evaluation of fiscal and economic impacts. The list is available at the end of this document.

Statement of cost of compliance

State agencies

DEQ expects any fiscal and economic impacts on state agencies to be the same as those estimated for local governments as discussed below.

Local governments

Direct impact: DEQ expects direct fiscal and economic impacts on local governments that operate facilities subject to these federal standards would be the same as those estimated for small businesses.

Indirect impact: The proposed rules could have an indirect impact on local governments if large and small businesses change the price of goods and services to offset any increased or decreased costs from obtaining a permit, paying permit fees, or complying with any changes in accordance with the applicable regulation.

There would be an indirect impact on Oregon cities and counties when affected businesses that are required to have a permit request a Land Use Compatibility Statement. Local governments process those Land Use Compatibility Statements. Some cities and counties charge a fee to complete the Land Use Compatibility Statement and may not have sufficient revenue to cover the added workload. Cities that do not charge a fee, or do not charge sufficient fees to cover their costs, may have new workload without adequate revenue. DEQ does not have available information to estimate these fiscal impacts.

Public

Indirect impact: The proposed rules could affect the public indirectly if large and small businesses change the price of goods and services to offset any increased or decreased costs from obtaining a permit, paying permit fees, or complying with any changes in accordance with the applicable regulation.

Direct impact: The proposed rules would not affect the public directly.

Large businesses - businesses with more than 50 employees

DEQ expects any fiscal and economic impacts on large businesses to be the same as those estimated for small businesses as discussed below.

Small businesses – businesses with 50 or fewer employees

Indirect impact: The proposed rules could have an indirect impact on small businesses if other businesses change the price of goods and services to offset any increased or decreased costs from obtaining a permit, paying a permit fee, or complying with any changes in accordance with the applicable regulation.

Direct impact: Small businesses might see increased or decreased costs due to the following proposed rules:

- Update the adoption of previously adopted federal standards (NESHAPs and NSPSs).
- DEQ anticipates no fiscal and economic impacts from updating previously adopted federal standards because the fiscal and economic impacts occurred when EPA promulgated the final rule amendments or upon the applicability date cited within each regulation. EPA evaluated the fiscal and economic effects of their rules and lists those effects in the preambles to their regulations or within the docket materials.

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

Any of the amended federal standards proposed for adoption could be applicable to a business regardless of the number of employees. The number of facilities in Oregon known to be subject to each regulation is listed in the table within the ‘statement of need’ section above and as a separate attachment below; There are approximately 129 permittees affected by these changes.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

Adoption of amended federal standards do not add any new reporting, recordkeeping and other administrative activities other than those already required by the federal standards.

The requirement that businesses affected by the new federal standards obtain a permit may increase the administrative activities or costs of professional services on small businesses; however, it is unlikely that a facility now complying with the new federal standards would trigger the requirement to obtain a new permit. These activities include permit application preparation and any additional recordkeeping and reporting required in the permit to comply with other Oregon rules and regulations.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

Adoption of amended federal standards would not require small businesses to add any equipment, supplies, labor or administration because Oregon rules would adopt all but one of the federal standards by reference. The one standard that is modified from an adoption by reference is only altering an allowable emissions rate that was increased by EPA; the change ensures the emission rate remains as stringent as it was before the revised rule was promulgated.

The requirement that businesses affected by the adoption of updated federal new source performance standards obtain a permit may require small businesses to add equipment, supplies, labor or administration to comply with other Oregon related rules and regulations. These rules and regulations include requirements to minimize visible emissions, fugitive emissions, particulate matter fallout, nuisances, and odors. To comply with these requirements, affected businesses may be required to install equipment and receive training to control and monitor emissions.

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ did not appoint an advisory committee for this rulemaking because the rulemaking would adopt federal regulations mostly by reference and remove duplicative rules.

Documents relied on for fiscal and economic impact

Document title	Document location
Code of Federal Regulations	http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR
Federal Register	http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR

Advisory Committee

DEQ did not appoint an advisory committee for this rulemaking because the rulemaking would adopt federal regulations mostly by reference and remove duplicative rules.

Housing Cost

To comply with ORS 183.534, DEQ determined the proposed rules could have a negative impact on the cost of development of a 6,000 square-foot parcel and the construction of a 1,200 square-foot detached single-family dwelling on that parcel. This impact could occur if permit holders affected by new federal standards obtain a permit and pass the permitting fees for such development and construction through to the consumer. DEQ does not have available information to quantify how many permit holders would pass the permitting fees through to the consumer and any such estimate would

be speculative.

Federal Relationship

Relationship to federal requirements

The proposed rules would adopt federal New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants mostly by reference. The proposed rules are not different from or in addition to federal requirements except for NESHAP OOO, which retains an emissions rate that was established in the NESHAP before this most recent revision.

What alternatives did DEQ consider if any?

DEQ considered:

- Not adopting standards to implement the updated federal standards.
 - DEQ rejected this alternative because it would establish two different standards, the federal and the state, with which a facility would need to comply. This would complicate DEQ's ability to ensure compliance and reduce DEQ's ability provide technical assistance to Oregon sources.
- Adopting all standards by reference without changes.
 - DEQ rejected this alternative because it would not address one federal standard that appears to be less stringent than baseline federal standards.
- Making state-specific changes to several federal standards.
 - DEQ rejected this alternative because the federal rules address Oregon's immediate concerns; consistency with the federal rules reduces cost and complexity for affected sources. Additionally, DEQ retains most discretionary authority after adoption and delegation of the standards.

Land Use

Considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
 - Resources, objectives or areas identified in the statewide planning goals, or
 - Present or future land uses identified in acknowledged comprehensive plans

To determine whether the proposed rules involve programs or actions that affect land use, DEQ reviewed its Statewide Agency Coordination plan, which describes the DEQ programs that have been determined to significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that the proposed rules will be implemented for major source categories through DEQ's Title V Operating Permit program and the standards for non-major source categories through DEQ's Air Contaminant Discharge Program. These are existing programs that the DEQ State Agency Coordination Program considers a land-use program.

EQC Prior Involvement

DEQ did not present additional information specific to this proposed rule revision.

Advisory Committee

DEQ did not convene an advisory committee for this rulemaking because the rulemaking would adopt federal regulations mostly by reference.

Public Engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On Aug. 28, 2020, filing notice with the Oregon Secretary of State for publication in the September 2020 Oregon Bulletin;
- Notifying the EPA by email;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Air Quality Rules to Address Federal Regulations 2020](#);
- Emailing approximately 18,653 interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - DEQ Public Notices
 - Federal Air Quality Regulations Rulemaking
 - Title V Permit Program
 - Air Toxics
 - Industrial Facilities
 - Air Quality Permits
 - NSPS/NESHAP
- Emailing the following key legislators required under ORS 183.335:
 - Senate President Peter Courtney
 - Senator Jeff Golden
 - State Representative Karen Power
 - House Speaker Tina Kotek
- Posting on the DEQ event calendar: [DEQ Calendar](#)

Public Hearing

DEQ held one public hearing for the proposed rulemaking. DEQ received no comments at the hearing. Later sections of this document include a summary of the one comment letter received during the open public comment period and DEQ's responses. The original comment is on file with DEQ.

Presiding Officer's Record

Date	Sept. 29, 2020
Place	Zoom Virtual Public Hearing 700 NE Multnomah St., Suite 600, Portland, OR 97232, Conference Room 610
Start Time	3 p.m.
End Time	3:40 p.m.
Presiding Officer	Jill Inahara

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to indicate, via the webinar or phone 'raise hand' buttons, their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to refer to the rulemaking webpage, which provides access to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice. No person presented any oral testimony or written comments at the hearing.

Summary of Public Comments and DEQ Responses

Public comment period

DEQ accepted public comment on the proposed rulemaking from Aug. 28, 2020, until 4 p.m. on Sept. 30, 2020.

DEQ received one public comment from the Northwest Environmental Defense Center. The following organizes the comment document into four categories. DEQ's response follows the comment summary. The original comment is on file with DEQ.

DEQ considered and responded to all comments described in the response sections below.

Comment Note: *The following excerpt from the comment document applies to all comments below.*

NEDC is concerned that the federal NESHAP amendments (amendments) will, if adopted by the State of Oregon, result in air quality standards that are significantly less protective of public health and the environment. If DEQ chooses to adopt these changes, it may fail to meet its statutory obligations under Oregon Environmental Protection Act (OEPA). DEQ must comply with OEPA; it should not adopt the entirety of the NESHAPs federal amendments into Oregon State law.

Comment 1

Deletion of Startup, Shutdown, and Malfunction Emissions Reporting Requirements.

The amendments have eliminated facility operator reporting requirements for startup, shutdown, and malfunction (SSM) emissions of hazardous air pollutants (HAPs) for a number of facilities. If DEQ adopts amendments that delete reporting requirements for SSM activities, there will not be adequate information regarding the HAPs emitted into Oregon's air. The amendments incentivize facilities to overlook HAP emissions during start up, shutdown, and maintenance activities.

Relaxed reporting requirements disincentivize facilities from monitoring their emissions during periods of SSM, making it difficult to ensure that the facilities are complying with emission limits and standards. In turn, relaxed reporting requirements may result in higher HAP emissions, which threaten both human health and the environment. Thus, if DEQ chooses to adopt these federal amendments, it may be adopting measures that are significantly less protective of public health and the environment in violation of OEPA.

Response

DEQ agrees with the *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008) circuit court decision that determined Clean Air Act emissions standards and limits apply at all times, regardless of Startup, Shutdown, and Malfunction (SSM) occurrences. As the previous SSM provisions were vacated by the courts, EPA has been systematically revising federal regulations to remove the SSM provisions to clarify that the limits and standards of an applicable regulation applies at all times. Sources that deviate from the limits or standards in

an applicable regulation must now comply with provisions that detail processes applicable to ‘deviations’ from the applicable requirement.

Generally speaking, the previous SSM provisions provided an avenue for facilities to potentially do what concerns the commenters. Sources previously established an SSM plan separate from other applicable requirements and complied with *that* plan during periods of SSM (demonstrating that the facility is operating according to ‘safety and good air pollution practices to minimize emissions’) instead of the typical operational limits and procedures required by the regulation.

DEQ believes there may be a misunderstanding of the 2008 D.C. circuit court decision referenced above, EPA’s response thereto, or the deviation requirements established in place of most previous SSM provisions. DEQ disagrees that the SSM-related changes in these federal regulations would be significantly less protective of human health or the environment.

Comment 2

Enhanced Administrative Deference.

If DEQ adopts the amendments that enhance administrative deference, this will undermine pre-existing statutory guidelines by creating uncertainty for regulated facilities that must comply with NESHAP requirements. Moreover, allowing for greater administrative deference will enable the current EPA Administrator to make policy judgments concerning air quality standards that may not align with DEQ’s duties to protect public health and the environment under OEPA. Based on the Administrator’s judgment and/or approval, regulated facilities in Oregon may be subject to less stringent air quality standards than they were prior to Jan. 19, 2017. In the meantime, facilities may emit greater amounts of HAPs due to uncertain, if not conflicting, requirements under Oregon’s existing laws as compared to the federal amendments.

Response

DEQ understands that the EPA Administrator (i.e., any current administration) making a determination regarding an alternative to a requirement or making discretionary approval/denials may cause concern. That is one of the reasons that DEQ believes it is important to adopt, and subsequently request delegation, of these standards- to ensure that DEQ will administer them, and thereby avoid a situation where EPA could administer them in a manner that would be significantly less protective of public health, the environment and natural resources.

Several of the regulations proposed for adoption include language that provides some level of administrator discretion. As the public notice and this staff report states (see ‘Statement of Need’ and ‘How will DEQ know the rules addressed the need?’), DEQ’s next steps include a delegation request to EPA. A delegation request, when approved by EPA, establishes Oregon DEQ as the ‘administrator’ of the standard in most cases. As the administrator of the standards, DEQ will remain committed to protecting public health and the environment by exercising this authority appropriately and reasonably in Oregon, in a manner that will

continue to be as protective of public health, the environment and natural resources as the standards that were in place in January 2017.

Administrative deference, in most cases cited below, was already in place within the existing regulations. These prior provisions allowed the source to present information to the administrator (i.e., DEQ, when delegated) to show the source was operating in compliance with ‘safety and good air pollution practices to minimize emissions’ at these times. The new provisions typically continue to allow this discretion, but generally removes this during periods of startup and shutdown. This lessens the total potential situations in which the discretion can be exercised and reduces the potential periods in which a deviation from the standards may not be a violation.

The regulatory citations referenced in this comment regarding ‘administrative deference’ or ‘administrator’ (DEQ) approval/discretion with DEQ’s responses are as follows:

NESHAP HHHH. Wet formed fiberglass mat production. Comment referred to §63.2984.

- §63.2984(e) allows sources to utilize an updated version of an industrial ventilation manual or an alternative, as approved by the administrator. As the administrator after delegation approval, DEQ would expect sources to sufficiently explain or demonstrate why the industrial ventilation manuals do not provide viable procedures. DEQ does not believe alternative procedures, reviewed on a case-by-case basis, will be significantly less protective of public health, the environment or natural resources.

NESHAP KKKK. Metal can surface coating. Comment referred to §63.3542 & §63.3552.

- §63.3542(h) previously stated that deviations during SSM occurrences were not violations if the source demonstrated, to the administrator’s satisfaction (i.e. DEQ, when delegated), that they were operating in accordance with proper ‘safety and good air pollution practices to minimize emissions’ (see §63.6(e)(1)(i)). This section now states that deviations that occur during malfunction (startup and shutdown occurrences now excluded) are now required to comply with §63.3500(b) (safety and good air pollution practices to minimize emissions) and the administrator (i.e. DEQ, when delegated) will determine whether the deviations are violations. The previous version of the rule provided administrator discretion regarding deviations and the new provisions reduce the instances in which this is applied. As DEQ will be the administrator after delegation, this change will not be significantly less protective of public health, the environment or natural resources¹.
- Important to note that DEQ interprets deviations from applicable requirements as violations of the applicable requirement. In some instances, and determined on a case-by-case basis, DEQ may elect to exercise enforcement discretion, but generally deviations are expected to be treated as violations. DEQ expects all sources to comply with all applicable requirements and standards at all possible times. Continual operation during periods of control device malfunction, for example, has the potential to be considered knowingly violating an applicable requirement or standard. During periods of malfunction, DEQ expects sources to respond to the issue in a timely and appropriate manner to reduce, or prevent when possible, any emission limit

exceedance. This may involve ceasing or reducing operations in a safe manner while the source attempts to return to normal operations.

- §63.3552(g) was updated to appropriately reflect the changes noted for §63.3542 described above.
- Of note is that the residual risk and technology review established a recurring 5-year testing requirement for sources that are using control devices to demonstrate compliance. This allows DEQ to ensure that emission analysis, limits, and emission factors are representative of normal operating conditions on a recurring basis.

NESHAP SSSS. Metal coil surface coating industry. Comment referred to §63.5140.

- §63.5140 includes changes to SSM provisions similar to what has been addressed above within the section for NESHAP KKKK. Namely, startup and shutdown periods are not excluded from applicable standards and that deviations during periods of malfunction must comply with specific provisions.
- Of note is that the residual risk and technology review established a recurring 5-year testing requirement for sources that are using control devices to demonstrate compliance. This allows DEQ to ensure that emission analysis, limits, and emission factors are representative of normal operating conditions on a recurring basis.

NESHAP TTTT. Leather finishing operations. Comment referred to §63.5320, §63.5380, & §63.5420.

- §63.5320 was updated to include some language from §63.6 directly in the regulation instead of by reference. This also accounts for components of the SSM changes outlined previously (see NESHAP KKKK section above), including administrator discretion for violations that stem from deviations.
- §63.5380 now specifies, in addition to the same requirement to follow general provision testing procedures, the administrator (i.e., DEQ, when delegated) will specify to the source what are representative performance conditions. Given that DEQ is the ‘administrator’ when the standards are delegated from EPA and that no sources are located in Oregon (there are four sources nationwide), DEQ is confident in its ability to ensure public and environmental protection with this discretionary provision and that it will not be significantly less protective of public health, the environment or natural resources.
- §63.5420 generally specifies what reports are required to be submitted. The revised regulation requires additional information associated with any deviation, now including estimates of HAP emissions and explanation of the cause. The revised section also provides authority for the administrator (i.e. DEQ, when delegated) to allow for a reduced frequency of deviation report submittals. DEQ does not believe that alternative reporting frequencies, as determined on a case-by-case basis, will be significantly less protective of public health, the environment or natural resources. Additionally, DEQ does not expect or intend to exercise this discretionary authority.

NESHAP DDDDD. Industrial and commercial boilers and process heaters. Comment referred to §63.7521.

- §63.7521 includes updates to Table 6 to allow an additional EPA method for liquid sampling (SW-846-7471B) as well as an additional method allowed for mercury

measurement (SW-846-7470A). EPA has updated a number of test methods and sampling methods that are not delegable. These changes are specific to aligning the NESHAP language with the updated sampling and testing methods. DEQ does not believe that the alternative measurement or sampling methods will be significantly less protective of public health, the environment or natural resources, and has not been presented with any information to the alternative.

NESHAP P P P P P. Engine test cells/stands. Comment referred to §63.9340.

- §63.9340 changes reflect updates to SSM provisions outlined earlier in this response section of the staff report.

1: This comment response addresses modifications to SSM provisions. ‘Administrator approval’ regarding SSM, or deviation, requirements is included in a similar context within several of the regulations noted in the comment.

Comment 3

Weakened Emissions-Reduction Standards for Particular Facilities

The amendments have weakened the emission-reduction standards for particular types of facilities and operations. They suggest the changes encompassed by the federal NESHAP amendments are not merely housekeeping changes that lack substantive impact.

For example, the allowable emissions for back-end continuous process vents (CPVs) in facilities that manufacture amino/phenolic resins has increased by more than 4.5 times under the federal amendments. The previous standard required emissions “less than 0.95kg,” whereas the amended federal standard requires emissions “less than 4.3kg.” Within the same subpart (OOO, under which one Oregon facility is regulated), emissions from CPVs at existing facilities no longer need to be measured cumulatively, giving those facilities a potential opportunity to measure their emissions during a period of lower operating capacity.

It appears that if DEQ chooses to adopt the federal NESHAP amendments, it may be adopting measures that are significantly less protective of public health and the environment in violation of OEPA.

Response

DEQ is committed to ensuring that rulemaking and regulatory actions are consistent with the Oregon Environmental Protection Act, ORS 468.148 and 468.149. DEQ appreciates the commenter’s review and assessment of the changes in NESHAP OOO and thanks the commenter for making this point. DEQ notes that the change in the CPV emission limit was not as straight forward as the commenters have described. The prior standard had a single CPV standard of 0.9kg, as commenters state. The new standard has differentiated the CPV emission standard into separate standards, for “front-end” and “back-end” CPV units. The standard for front-end CPVs is more stringent, at 0.28kg for front-end reactor CPVs and 0.01kg for front-end non-reactor CPVs. The standard for back-end CPVs is less stringent, at 4.3kg. All changes for the CPVs were made following a revised MACT floor and a Beyond the Floor (BTF) analysis.

The revised standard for back-end CPVs is higher and the revised standards for front-end CPVs are lower. While it appears that EPA followed established procedures for conducting the revised MACT floor analysis, DEQ generally agrees with the commenter. To ensure conformity with the intent of the OEPA with its proposal to the EQC, DEQ has modified the draft rules in response to this comment.

DEQ has elected to adopt the more stringent front-end CPV standards and clarify that the adoption of this standard by reference includes the previous regulatory provisions and emissions limits for back-end CPVs. DEQ staff concludes that, overall, the revised language for rule adoption is not significantly less protective of public health, the environment or natural resources.

In regard to the commenter's concerns surrounding emissions measurements for CPVs being cumulative, the revised NESHAP requires sources to demonstrate continuous compliance in different ways. It appears the main concern is that the revised method of determining continuous compliance for continuous process vents is indicative of a relaxed standard or would otherwise allow a source to emit more HAPs.

This specific continuous compliance method within the revised NESHAP requires daily or hourly emissions averaging instead of the previous compliance demonstration, which was monthly. Monthly averaging allowed sources to include days or periods of much higher emissions and effectively mitigate those occurrences with days or operational periods with lower emissions. Alternatively, requiring the sources to now average over 24 hour periods (for both hourly and daily averaging requirements) ensures sources do not exceed the applicable emissions limitation on average each day by including less data in each 'check' against the applicable emissions limitation. DEQ staff concludes that the removal of 'cumulative' and the change to daily or hourly averaging is not significantly less protective of public health, the environment or natural resources.

Comment 4

Environmental Justice Concerns.

Reducing regulatory requirements for hazardous air pollutants will exacerbate existing and ongoing disparities. First, relaxed reporting requirements for SSM activities would adversely and disproportionately burden EJ communities located near facilities by creating an information barrier. In turn, relaxed reporting requirements may result in higher HAP emissions, which would be concentrated in the immediately surrounding EJ communities

Moreover, DEQ's commenting and public notice hearing procedures during the COVID-19 pandemic are not equitable because they limit the participation of both low-income communities and communities of color. During the COVID-19 pandemic, schools have switched to at-home computer-based learning. Due to the switch to home learning, families in disparately impacted communities must prioritize who uses the computer and for what activity. By having the public hearing proceedings online, this procedure forces many people to choose between their own work, their children's education, or speaking up for their concerns over hazardous air pollution. DEQ's adoption of rules during the COVID-19

pandemic creates a division between concerned citizens who can afford the time, expensive internet services, and expensive personal computing devices and those who cannot. DEQ should seek to adopt more inclusive opportunities to attend public notice hearings for rule changes, such as having multiple hearings throughout the commenting period

Response

As cited in the previous responses, changes to SSM provisions within the regulations included in this rulemaking do not lessen or relax the standards. As such, DEQ does not believe any community will be disproportionately burdened or impacted, believes there will be no information barrier created, and that there will not be an increase in HAP emissions.

DEQ is committed to environmental justice. As restrictions went into place in Oregon to reduce the spread of COVID 19, DEQ quickly shifted to offering virtual opportunities to the public to participate in our processes, both on line and by phone, toll free. Internet access is not a prerequisite to participation. When appropriate, DEQ has also reached out to community members to seek input prior to the start of the public comment period to meet specific needs, which can include enhanced outreach, translation services and recording public hearing proceedings to share afterward.

The public notice of this rulemaking was sent to all parties via email that have signed up to DEQ's gov-delivery services, allowing a 30-day period for comment submittal. Prior to COVID-19, DEQ frequently offered members of the public the option of attending meetings and hearings via telephone as it is often a more efficient method of attendance than travelling to the hearing location. DEQ is committed to continuous improvement when seeking public input on rulemaking, permitting and other regulatory activities.

While DEQ understands that COVID-19 has caused disruptions to communities and industries nationwide, DEQ strives to continue its core work during these difficult times and welcomes any feedback about how to improve our public engagement processes.

Implementation

Notification

The proposed rules would become effective upon filing, approximately Jan. 25, 2021. DEQ would notify affected parties by:

- Emailing interested parties on the NSPS/NESHAP GovDelivery list; and
- Emailing DEQ's regional air quality managers and staff

Compliance and enforcement

Incorporating new and amended federal standards into Title V and Air Contaminant Discharge permits and ensuring compliance

Current DEQ rules require that DEQ place new and amended federal standards into Title V and Air Contaminant Discharge permits. Once the new and amended federal standards are incorporated into a permit, DEQ is required to inspect pollution control systems and/or prevention methods and to review monitoring data and compliance reports as part of their routine compliance inspections. Inspections may identify violations of emission limits and standards.

Title V Sources

OAR 340-218-0200 requires each issued permit to be reopened and revised if additional applicable requirements under the federal Clean Air Act become applicable to a major Title V source with a remaining permit term of three or more years. Such a reopening must be completed no later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to OAR 340-218-0130. Amendments to federal standards will be incorporated upon permit renewal.

Non-Title V Sources

Most non-major sources are exempted from Title V. However, OAR 340-216-0020(1) requires non-Title V sources to obtain an Air Contaminant Discharge Permit in order to operate. Some facilities affected by the new and amended federal standards already have an Air Contaminant Discharge Permit. The new and amended federal standards will need to be incorporated into these facilities' permits.

OAR 340-216-0068 gives DEQ the ability to add new requirements to Simple or Standard Air Contaminant Discharge Permits by assigning the affected facilities to an Air Contaminant Discharge Permit Attachment. If EPA or DEQ action caused a facility to be subject to the new requirements, the facility would not be required to submit a permit application or pay fees for this permit action. The DEQ office in the region in which the affected facility is located would notify the affected facility of the proposed permitting action, and if the permittee does not object, assign the facility to the Air Contaminant Discharge Permit Attachment. The assignment would end when the affected facility's Simple or Standard

permit is renewed and the new requirements are incorporated into the facility's Simple or Standard Air Contaminant Discharge Permit.

Measuring, sampling, monitoring and reporting

- Affected parties - Any required compliance testing and reporting requirements are contained in the federal standards and will be incorporated into the permits of affected parties.
- DEQ staff - DEQ staff will process and review compliance reports submitted by affected parties to determine compliance with the federal standards.

Systems

- Website - DEQ will update its website with any new or amended permits, permit application forms, and compliance reporting forms.
- Database - DEQ will use its existing TRAACS database to implement the Title V and Air Contaminant Discharge Permit programs and utilize ACES to track compliance with the new and amended federal standards.
- Invoicing - DEQ will use its existing TRAACS database for invoicing.

Training

Whenever possible, staff training will rely on EPA and industry training, workshops, and implementation materials. Headquarters staff will track training opportunities, workshops and implementation materials to get affected parties, and the appropriate DEQ staff, the necessary resources to comply with, and to implement, the amended federal standards. DEQ's headquarters staff will also visit regional offices when requested to discuss the amended federal standards.

Five-Year Review

Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

Exemption from five-year rule review

The Administrative Procedures Act exempts some of the proposed rules from the five-year review because the proposed rules would:

- Adopt a federal law or rule by reference. ORS 183.405(5)(b).

Accessibility Information

You may review copies of all documents referenced in this announcement at:
Oregon Department of Environmental Quality
700 NE Multnomah St., Ste. 600
Portland, OR, 97232

To schedule a review of all websites and documents referenced in this announcement, call Dan DeFehr, Portland, 503-229-6442. (800-452-4011, ext. 5622 toll-free in Oregon).

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.



State of Oregon Department of Environmental Quality

New and Amended Federal Standards Proposed for EQC Action

[NSPS](#): New Source Performance Standards

[NESHAP](#): National Emission Standards for Hazardous Air Pollutants

More information regarding federal regulation of stationary sources of air pollution is available [here](#).

New and Amended NESHAPs/NSPSs Proposed for EQC Action								
Subpart	Source Category	EPA Original Promulgation		Last EPA Revision Adopted by EQC		EPA Revisions Proposed for EQC Adoption		Known Sources in Oregon
		Date	FR Citation	Date	FR Citation	Date	FR Citation	
Part 60 – NSPS								
A	General Provisions	12/23/1971	36 FR 24877	7/17/2017	82 FR 32646	11/14/2018	83 FR 56720	*
						9/11/2019	84 FR 47882	
WWW	Municipal Solid Waste Landfills built after May, 1991	3/12/1996	61 FR 9919	9/21/2006	71 FR 55127	3/26/2020	85 FR 17260	7
XXX	Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification after July 17, 2014	8/29/2016	81 FR 59368	5/31/2017	82 FR 24879	3/26/2020	85 FR 17261	0
CCCC	Commercial and Industrial Solid Waste Incineration Units	12/1/2000	65 FR 75350	6/23/2016	81 FR 40970	4/16/2019	84 FR 15853	0
III	Stationary Compression Ignition Internal Combustion Engines	7/11/2006	71 FR 39172	7/7/2016	81 FR 44219	7/5/2019	84 FR 32088	62
						7/26/2019	84 FR 35996	
						9/20/2019	84 FR 49470	

New and Amended NESHAPs/NSPSs Proposed for EQC Action

Subpart	Source Category	EPA Original Promulgation		Last EPA Revision Adopted by EQC		EPA Revisions Proposed for EQC Adoption		Known Sources in Oregon
		Date	FR Citation	Date	FR Citation	Date	FR Citation	
PART 61 – NESHAP								
A	General Provisions	4/6/1973	38 FR 8826	4/21/2015	80 FR 22115	9/11/2019	84 FR 47882	*
PART 63 – NESHAP								
A	General Provisions	3/16/1994	59 FR 12430	10/16/2017	82 FR 48178	11/14/2018 9/11/2019	83 FR 56725 84 FR 47882	*
CC	Petroleum Refineries	8/18/1995	60 FR 43260	7/13/2016	81 FR 45241	11/26/2018 2/4/2020	83 FR 60696 85 FR 6082	0
LLL	Portland Cement Manufacturing	6/14/1999	64 FR 31925	8/22/2017	82 FR 39673	7/25/2018 8/3/2018	83 FR 35132 83 FR 38036	1
OOO	Manufacture of Amino/Phenolic Resins	1/20/2000	65 FR 3290	10/8/2014	79 FR 60929	10/15/2018	83 FR 51842	1
UUU	Petroleum Refineries-Catalytic Cracking, Catalytic Reforming & Sulfur Recovery	4/11/2002	67 FR 17773	7/13/2016	81 FR 45243	2/4/2020	85 FR 6083	0
AAAA	Municipal Solid Waste Landfills	1/16/2003	68 FR 2238	4/20/2006	71 FR 20462	3/26/2020	85 FR 17261	5
DDDD	Plywood and Composite Wood Products	7/30/2004	69 FR 46011	10/29/2007	72 FR 61062	8/13/2020	85 FR 49455	17
HHHH	Wet Formed Fiberglass Mat Production	4/11/2002	67 FR 17835	4/20/2006	71 FR 20464	2/28/2019	84 FR 6692	0
KKKK	Metal Can (Surface Coating)	11/23/2003	68 FR 64446	4/20/2006	71 FR 20465	2/25/2020	85 FR 10847	0
NNNN	Large Appliances (Surface Coating)	7/23/2002	67 FR 48262	4/20/2006	71 FR 20465	3/15/2019	84 FR 9590	0
OOOO	Fabric Printing, Coating and Drying	5/29/2003	68 FR 32189	5/24/2006	71 FR 29805	3/15/2019	84 FR 9623	0
QQQQ	Wood Building Products (Surface Coating)	5/28/2003	68 FR 31760	4/20/2006	71 FR 20465	3/4/2019	84 FR 7682	7
RRRR	Metal Furniture (Surface Coating)	5/23/2003	68 FR 28619	4/20/2006	71 FR 20466	3/15/2019	84 FR 9635	0
SSSS	Metal Coil	6/10/2002	67 FR 39812	3/17/2003	68 FR 12592	2/25/2020	85 FR 10861	0
TTTT	Leather Finishing Operations	2/27/2002	67 FR 9162	2/7/2005	70 FR 6360	2/12/2019	84 FR 3320	0

New and Amended NESHAPs/NSPSs Proposed for EQC Action								
Subpart	Source Category	EPA Original Promulgation		Last EPA Revision Adopted by EQC		EPA Revisions Proposed for EQC Adoption		Known Sources in Oregon
		Date	FR Citation	Date	FR Citation	Date	FR Citation	
VVVV	Boat Manufacturing	8/22/2001	66 FR 44232	10/3/2001	66 FR 50504	3/20/2020	85 FR 15791	1
WWWW	Reinforced Plastics Composites Production	4/21/2003	68 FR 19402	4/20/2006	71 FR 20466	3/20/2020	85 FR 15975	7
YYYY	Combustion Turbines	3/5/2004	69 FR 10537	4/20/2006	71 FR 20467	3/20/2020	85 FR 13539	1
DDDDD	Industrial, Commercial, and Institutional Boilers and Process Heaters	3/21/11	76 FR 15664	11/20/2015	80 FR 72807	11/14/2018	83 FR 56725	19
LLLLL	Asphalt Processing & Asphalt Roofing Manufacturing	4/29/2003	68 FR 22991	4/20/2006	71 FR 20649	3/12/2020	85 FR 14548	0
NNNNN	Hydrochloric Acid Production	4/17/2003	68 FR 19090	4/20/2006	71 FR 20470	4/15/2020	85 FR 20867	0
PPPPP	Engine Test Cells/Standards	5/27/2003	68 FR 28785	4/20/2006	71 FR 20470	6/3/2020	85 FR 34345	0
QQQQQ	Friction Products Manufacturing	10/18/2002	67 FR 64507	4/20/2006	71 FR 20470	2/8/2019	84 FR 2750	0

*Most sources subject to an NSPS or NESHAP standard are subject to some or all of the General Provisions (Subpart A) of that part 60, 61, or 63 as applicable.

Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

Division 200
GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

340-200-0035

Reference Materials

As used in divisions 200 through 268, the following materials refer to the versions listed below.

(1) "C.F.R." means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, 20~~2018~~ edition.

(2) The DEQ Source Sampling Manual refers to the November 2018 edition.

(3) The DEQ Continuous Monitoring Manual refers to the March 2015 edition.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 with the exception of all references to toxic air contaminants and OAR chapter 340, division 245.

[\[ED. NOTE: To view attachments referenced in rule text, click here to view rule.\]](#)

Statutory/Other Authority: ORS 468.020 & 468A

Statutes/Other Implemented: ORS 468A

History:

DEQ 2-2019, minor correction filed 01/07/2019, effective 01/07/2019

DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018

DEQ 53-2017, minor correction filed 12/19/2017, effective 12/19/2017

DEQ 7-2015, f. & cert. ef. 4-16-15

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the State Implementation Plan (SIP) of the State of Oregon under the FCAA, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR 340 division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the EPA for approval. The SIP was last modified by the EQC on ~~July-Nov. 18~~19, 20~~20~~19.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the EPA any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 C.F.R. 51.102; and

(b) Approve the standards submitted by LRAPA if LRAPA adopts verbatim, other than non-substantive differences, any standard that the EQC has adopted, and submit the standards to EPA for approval as a SIP revision.

(4) Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the EPA. If any provision of the federally approved State Implementation Plan conflicts with any provision adopted by the EQC, DEQ must enforce the more stringent provision.

Statutory/Other Authority: ORS 468.020 & 468A

Statutes/Other Implemented: ORS 468A.035 & 468A.135

History:

DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019
DEQ 14-2019, amend filed 05/17/2019, effective 05/17/2019
DEQ 4-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 192-2018, amend filed 09/14/2018, effective 09/14/2018
DEQ 190-2018, amend filed 07/13/2018, effective 07/13/2018
DEQ 11-2018, amend filed 03/23/2018, effective 03/23/2018
DEQ 7-2017, f. & cert. ef. 7-13-17
DEQ 2-2017, f. & cert. ef. 1-19-17
DEQ 14-2015, f. & cert. ef. 12-10-15
DEQ 10-2015, f. & cert. ef. 10-16-15
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2015, f. & cert. ef. 4-16-15
DEQ 7-2014, f. & cert. ef. 6-26-14
DEQ 6-2014, f. & cert. ef. 3-31-14
DEQ 5-2014, f. & cert. ef. 3-31-14
DEQ 4-2014, f. & cert. ef. 3-31-14
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 12-2013, f. & cert. ef. 12-19-13
DEQ 11-2013, f. & cert. ef. 11-7-13
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 10-2012, f. & cert. ef. 12-11-12
DEQ 7-2012, f. & cert. ef. 12-10-12
DEQ 1-2012, f. & cert. ef. 5-17-12

DEQ 18-2011, f. & cert. ef. 12-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 14-2010, f. & cert. ef. 12-10-10
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 2-2010, f. & cert. ef. 3-5-10
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 3-2009, f. & cert. ef. 6-30-09
DEQ 15-2008, f. & cert. ef. 12-31-08
DEQ 14-2008, f. & cert. ef. 11-10-08
DEQ 12-2008, f. & cert. ef. 9-17-08
DEQ 11-2008, f. & cert. ef. 8-29-08
DEQ 5-2008, f. & cert. ef. 3-20-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 4-2007, f. & cert. ef. 6-28-07
DEQ 3-2007, f. & cert. ef. 4-12-07
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 9-2005, f. & cert. ef. 9-9-05
DEQ 7-2005, f. & cert. ef. 7-12-05
DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 1-2005, f. & cert. ef. 1-4-05
DEQ 10-2004, f. & cert. ef. 12-15-04
DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 19-2003, f. & cert. ef. 12-12-03
DEQ 14-2003, f. & cert. ef. 10-24-03
DEQ 5-2003, f. & cert. ef. 2-6-03
DEQ 11-2002, f. & cert. ef. 10-8-02
DEQ 5-2002, f. & cert. ef. 5-3-02
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 17-2001, f. & cert. ef. 12-28-01
DEQ 16-2001, f. & cert. ef. 12-26-01
DEQ 15-2001, f. & cert. ef. 12-26-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 4-2001, f. & cert. ef. 3-27-01
DEQ 2-2001, f. & cert. ef. 2-5-01
DEQ 21-2000, f. & cert. ef. 12-15-00
DEQ 20-2000 f. & cert. ef. 12-15-00
DEQ 17-2000, f. & cert. ef. 10-25-00
DEQ 16-2000, f. & cert. ef. 10-25-00
DEQ 13-2000, f. & cert. ef. 7-28-00
DEQ 8-2000, f. & cert. ef. 6-6-00
DEQ 6-2000, f. & cert. ef. 5-22-00
DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01

DEQ 15-1999, f. & cert. ef. 10-22-99
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047
DEQ 10-1999, f. & cert. ef. 7-1-99
DEQ 6-1999, f. & cert. ef. 5-21-99
DEQ 5-1999, f. & cert. ef. 3-25-99
DEQ 1-1999, f. & cert. ef. 1-25-99
DEQ 21-1998, f. & cert. ef. 10-12-98
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 17-1998, f. & cert. ef. 9-23-98
DEQ 16-1998, f. & cert. ef. 9-23-98
DEQ 15-1998, f. & cert. ef. 9-23-98
DEQ 10-1998, f. & cert. ef. 6-22-98
DEQ 24-1996, f. & cert. ef. 11-26-96
DEQ 23-1996, f. & cert. ef. 11-4-96
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 15-1996, f. & cert. ef. 8-14-96
DEQ 8-1996(Temp), f. & cert. ef. 6-3-96
DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95
DEQ 19-1995, f. & cert. ef. 9-1-95
DEQ 17-1995, f. & cert. ef. 7-12-95
DEQ 14-1995, f. & cert. ef. 5-25-95
DEQ 10-1995, f. & cert. ef. 5-1-95
DEQ 9-1995, f. & cert. ef. 5-1-95
DEQ 25-1994, f. & cert. ef. 11-2-94
DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94
DEQ 14-1994, f. & cert. ef. 5-31-94
DEQ 5-1994, f. & cert. ef. 3-21-94
DEQ 1-1994, f. & cert. ef. 1-3-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 17-1993, f. & cert. ef. 11-4-93
DEQ 16-1993, f. & cert. ef. 11-4-93
DEQ 15-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93
DEQ 8-1993, f. & cert. ef. 5-11-93
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 27-1992, f. & cert. ef. 11-12-92
DEQ 26-1992, f. & cert. ef. 11-2-92
DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92
DEQ 20-1992, f. & cert. ef. 8-11-92
DEQ 19-1992, f. & cert. ef. 8-11-92
DEQ 7-1992, f. & cert. ef. 3-30-92
DEQ 3-1992, f. & cert. ef. 2-4-92
DEQ 1-1992, f. & cert. ef. 2-4-92
DEQ 25-1991, f. & cert. ef. 11-13-91
DEQ 24-1991, f. & cert. ef. 11-13-91

DEQ 23-1991, f. & cert. ef. 11-13-91
DEQ 22-1991, f. & cert. ef. 11-13-91
DEQ 21-1991, f. & cert. ef. 11-13-91
DEQ 20-1991, f. & cert. ef. 11-13-91
DEQ 19-1991, f. & cert. ef. 11-13-91
DEQ 2-1991, f. & cert. ef. 2-14-91
DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88
DEQ 21-1987, f. & cert. ef. 12-16-87
DEQ 8-1987, f. & cert. ef. 4-23-87
DEQ 5-1987, f. & cert. ef. 3-2-87
DEQ 4-1987, f. & cert. ef. 3-2-87
DEQ 21-1986, f. & cert. ef. 11-7-86
DEQ 20-1986, f. & cert. ef. 11-7-86
DEQ 10-1986, f. & cert. ef. 5-9-86
DEQ 5-1986, f. & cert. ef. 2-21-86
DEQ 12-1985, f. & cert. ef. 9-30-85
DEQ 3-1985, f. & cert. ef. 2-1-85
DEQ 25-1984, f. & cert. ef. 11-27-84
DEQ 18-1984, f. & cert. ef. 10-16-84
DEQ 6-1983, f. & cert. ef. 4-18-83
DEQ 1-1983, f. & cert. ef. 1-21-83
DEQ 21-1982, f. & cert. ef. 10-27-82
DEQ 14-1982, f. & cert. ef. 7-21-82
DEQ 11-1981, f. & cert. ef. 3-26-81
DEQ 22-1980, f. & cert. ef. 9-26-80
DEQ 21-1979, f. & cert. ef. 7-2-79
DEQ 19-1979, f. & cert. ef. 6-25-79
DEQ 54, f. 6-21-73, cert. ef. 7-1-73
DEQ 35, f. 2-3-72, cert. ef. 2-15-72

Division 238
NEW SOURCE PERFORMANCE STANDARDS

340-238-0040

Definitions

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

- (1) "Administrator" means the Administrator of the EPA or authorized representative.
- (2) "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.
- (3) "Capital expenditures" means an expenditure for a physical or operational change to an existing facility that exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service (IRS)

Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.

(4) "C.F.R." means the July 1, 20~~2018~~ edition Code of Federal Regulations unless otherwise identified.

(5) "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 C.F.R. 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.

(6) "Commenced", with respect to the definition of "new source" in section 111(a)(2) of the federal Clean Air Act, means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(7) "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before 5/30/91 and has accepted waste at any time since 11/08/87 or has additional design capacity available for future waste deposition.

(8) "Existing facility", with reference to a stationary source, means any apparatus of the type for which a standard is promulgated in 40 C.F.R. Part 60, and the construction or modification of which commenced before the date of proposal by EPA of that standard; or any apparatus that could be altered in such a way as to be of that type.

(9) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(10) "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters.

(11) "Modification:"

(a) except as provided in subsection (b) of this section, means any physical change in, or change in the method of operation of, an existing facility that increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or that results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted;

(b) As used in OAR 340-238-0100 means an action that results in an increase in the design capacity of a landfill.

(12) "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification).

(13) "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after 5/30/91.

(14) "Reconstruction" means the replacement of components of an existing facility to such an extent that:

(a) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility; and

(b) It is technologically and economically feasible to meet the applicable standards set forth in 40 C.F.R. Part 60.

(15) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 C.F.R. Part 60.

(16) "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters.

(17) "Standard" means a standard of performance proposed or promulgated under 40 C.F.R. Part 60.

(18) "State Plan" means a plan developed for the control of a designated pollutant provided under 40 C.F.R. Part 60.

Statutory/Other Authority: ORS 468.020

Statutes/Other Implemented: ORS 468A.025

History:

DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019

DEQ 6-2017, f. & cert. ef. 7-13-17

DEQ 8-2015, f. & cert. ef. 4-17-15

DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 8-2009, f. & cert. ef. 12-16-09

DEQ 15-2008, f. & cert. ef. 12-31-08

DEQ 13-2006, f. & cert. ef. 12-22-06

DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 4-2003, f. & cert. ef. 2-06-03
DEQ 22-2000, f. & cert. ef. 12-18-00
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0510
DEQ 22-1998, f. & cert. ef. 10-21-98
DEQ 8-1997, f. & cert. ef. 5-6-97
DEQ 27-1996, f. & cert. ef. 12-11-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 17-1993, f. & cert. ef. 11-4-93
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 24-1989, f. & cert. ef. 10-26-89
DEQ 17-1987, f. & ef. 8-24-87
DEQ 19-1986, f. & ef. 11-7-86
DEQ 15-1985, f. & ef. 10-21-85
DEQ 16-1984, f. & ef. 8-21-84
DEQ 17-1983, f. & ef. 10-19-83
DEQ 22-1982, f. & ef. 10-21-82
DEQ 97, f. 9-2-75, ef. 9-25-75

Division 244
OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM

340-244-0030

General Provisions for Stationary Sources: Definitions

The definitions in OAR 340-200-0020, 340-218-0030 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020 or 340-218-0030, the definition in this rule applies to this division.

- (1) "Affected source" is as defined in 40 C.F.R. 63.2.
- (2) "Annual throughput" means the amount of gasoline transferred into a gasoline dispensing facility during 12 consecutive months.
- (3) "Area Source" means any stationary source which has the potential to emit hazardous air pollutants but is not a major source of hazardous air pollutants.
- (4) "C.F.R." means the July 1, 20~~20~~¹⁸ edition Code of Federal Regulations unless otherwise identified.
- (5) "Construct a major source" means to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP, or to fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria in paragraphs (a) through (f) of this definition:

(a) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of 40 C.F.R. Part 63, Subpart B will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(b) DEQ has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 C.F.R. Part 51 or 52, toxics-best available control technology (T-BACT), or MACT based on State air toxic rules for the category of pollutants which includes those HAP to be emitted by the process or production unit; or DEQ determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or State air toxic rule MACT determination).

(c) DEQ determines that the percent control efficiency for emission of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(d) DEQ has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (a), (b), and (c) of this definition apply and concerning the continued adequacy of any prior LAER, BACT, T-BACT, or State air toxic rule MACT determination;

(e) If any commenter has asserted that a prior LAER, BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, DEQ has determined that the level of control required by that prior determination remains adequate; and

(f) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by DEQ are predicated will be construed by DEQ as applicable requirements under section 504(a) and either have been incorporated into any existing Title V permit for the affected facility or will be incorporated into such permit upon issuance.

(6) "Dual-point vapor balance system" means a type of vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.

(7) "Emissions Limitation" and "Emissions Standard" mean a requirement adopted by DEQ or Regional Agency, or proposed or promulgated by the Administrator of the EPA, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

- (8) "Equipment leaks" means leaks from pumps, compressors, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, agitators, accumulator vessels, and instrumentation systems in hazardous air pollutant service.
- (9) "Existing Source" means any source, the construction of which commenced prior to proposal of an applicable standard under sections 112 or 129 of the FCAA.
- (10) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.
- (11) "Gasoline" means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals (4.0 psi) or greater, which is used as a fuel for internal combustion engines.
- (12) "Gasoline cargo tank" means a delivery tank truck or railcar which is loading or unloading gasoline, or which has loaded or unloaded gasoline on the immediately previous load.
- (13) "Gasoline dispensing facility (GDF) " means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline fueled engines and equipment. In Clackamas, Multnomah and Washington Counties, the Medford-Ashland Air Quality Maintenance Area, and the Salem-Keizer Area Transportation Study area, "gasoline dispensing facility" includes any stationary facility which dispenses gasoline into the fuel tank of an airplane.
- (14) "Hazardous Air Pollutant" (HAP) means an air pollutant listed by the EPA under section 112(b) of the FCAA or determined by the Commission to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.
- (15) "Major Source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The EPA may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.
- (16) "Maximum Achievable Control Technology (MACT)" means an emission standard applicable to major sources of hazardous air pollutants that requires the maximum degree of reduction in emissions deemed achievable for either new or existing sources.
- (17) "Monthly throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at each GDF during a month. Monthly throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline

storage tanks at each GDF during the current day, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the previous 364 days, and then dividing that sum by 12.

(18) "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(19) "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 of this title or section 7521 of this title.

(20) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, and that is not a motor vehicle or a vehicle used solely for competition.

(21) "New Source" means a stationary source, the construction of which is commenced after proposal of a federal MACT or January 3, 1993 of this Division, whichever is earlier.

(22) "Potential to Emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, must be treated as part of its design if the limitation is enforceable by the EPA. This section does not alter or affect the use of this section for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder. Secondary emissions shall not be considered in determining the potential to emit of a source.

(23) "Reconstruct a Major Source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever: the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and; it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under 40 C.F.R. Part 63 Subpart B.

(24) "Regulated Air Pollutant" as used in this Division means:

(a) Any pollutant listed under OAR 340-244-0040; or

(b) Any pollutant that is subject to a standard promulgated under Section 129 of the Act.

(25) "Section 112(n)" means that subsection of the FCAA that includes requirements for the EPA to conduct studies on the hazards to public health prior to developing emissions standards for specified categories of hazardous air pollutant emission sources.

(26) "Section 112(r)" means that subsection of the FCAA that includes requirements for the EPA promulgate regulations for the prevention, detection and correction of accidental releases.

(27) "Solid Waste Incineration Unit" as used in this Division has the same meaning as given in Section 129(g) of the FCAA.

(28) "Stationary Source", as used in OAR 340 division 244, means any building, structure, facility, or installation which emits or may emit any regulated air pollutant;

(29) "Submerged filling" means the filling of a gasoline storage tank through a submerged fill pipe whose discharge is no more than the applicable distance specified in OAR 340-244-0240(3) from the bottom of the tank. Bottom filling of gasoline storage tanks is included in this definition.

(30) "Topping off" means, in the absence of equipment malfunction, continuing to fill a gasoline tank after the nozzle has clicked off.

(31) "Vapor balance system" means a combination of pipes and hoses that create a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank such that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.

(32) "Vapor-tight" means equipment that allows no loss of vapors. Compliance with vapor-tight requirements can be determined by checking to ensure that the concentration at a potential leak source is not equal to or greater than 100 percent of the Lower Explosive Limit when measured with a combustible gas detector, calibrated with propane, at a distance of 1 inch from the source.

(33) "Vapor-tight gasoline cargo tank" means a gasoline cargo tank which has demonstrated within the 12 preceding months that it meets the annual certification test requirements in 40 C.F.R. 63.11092(f).

[Publications: Publications referenced are available from DEQ.]

Statutory/Other Authority: ORS 468.020 & 468A.025

Statutes/Other Implemented: ORS 468A.040

History:

DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019

DEQ 6-2017, f. & cert. ef. 7-13-17

DEQ 8-2015, f. & cert. ef. 4-17-15

DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 8-2009, f. & cert. ef. 12-16-09

DEQ 15-2008, f. & cert. ef. 12-31-08

DEQ 13-2006, f. & cert. ef. 12-22-06

DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0120
DEQ 18-1998, f. & cert. ef. 10-5-98
DEQ 20-1997, f. & cert. ef. 9-25-97
DEQ 26-1996, f. & cert. ef. 11-26-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & cert. ef. 10-28-94
DEQ 18-1993, f. & cert. ef. 11-4-93
DEQ 13-1993, f. & cert. ef. 9-24-93

340-244-0220

Emission Standards: Federal Regulations Adopted by Reference

(1) Except as provided in sections (2) and (3) of this rule, 40 C.F.R. Part 61, Subparts A, C through F, J, L, N through P, V, Y, BB, and FF and 40 C.F.R. Part 63, Subparts A, F through J, L through O, Q through U, W through Y, AA through EE, GG through YY, CCC through EEE, GGG through JJJ, LLL through RRR, TTT through VVV, XXX, AAAA, CCCC through KKKK, MMMM through YYYY, AAAAA through NNNNN, PPPPP through UUUUU, WWWWW, YYYYY, ZZZZZ, BBBBBB, DDDDDD through HHHHHH, LLLLLL through TTTTTT, VVVVVV through EEEEEEE, and HHHHHHH are adopted by reference and incorporated herein, and 40 C.F.R. Part 63, Subparts ZZZZ and JJJJJ are by this reference adopted and incorporated herein only for sources required to have a Title V or ACDP permit.

(2) Where "Administrator" or "EPA" appears in 40 C.F.R. Part 61 or 63, "DEQ" is substituted, except in any section of 40 C.F.R. Part 61 or 63, for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.

(3) 40 C.F.R. Part 63 Subpart M — Dry Cleaning Facilities using Perchloroethylene: The exemptions in 40 C.F.R. 63.320(d) and (e) do not apply.

(4) 40 C.F.R. Part 61 Subparts adopted by this rule are titled as follows:

- (a) Subpart A — General Provisions;
- (b) Subpart C — Beryllium;
- (c) Subpart D — Beryllium Rocket Motor Firing;
- (d) Subpart E — Mercury;
- (e) Subpart F — Vinyl Chloride;
- (f) Subpart J — Equipment Leaks (Fugitive Emission Sources) of Benzene;
- (g) Subpart L — Benzene Emissions from Coke By-Product Recovery Plants;
- (h) Subpart N — Inorganic Arsenic Emissions from Glass Manufacturing Plants;

- (i) Subpart O — Inorganic Arsenic Emissions from Primary Copper Smelters;
 - (j) Subpart P — Inorganic Arsenic Emissions from Arsenic Trioxide and Metal Arsenic Facilities;
 - (k) Subpart V — Equipment Leaks (Fugitive Emission Sources);
 - (l) Subpart Y — Benzene Emissions from Benzene Storage Vessels;
 - (m) Subpart BB — Benzene Emissions from Benzene Transfer Operations; and
 - (n) Subpart FF — Benzene Waste Operations.
- (5) 40 C.F.R. Part 63 Subparts adopted by this rule are titled as follows:
- (a) Subpart A — General Provisions;
 - (b) Subpart F — SOCFI;
 - (c) Subpart G — SOCFI — Process Vents, Storage Vessels, Transfer Operations, and Wastewater;
 - (d) Subpart H — SOCFI — Equipment Leaks;
 - (e) Subpart I — Certain Processes Subject to the Negotiated Regulation for Equipment Leaks;
 - (f) Subpart J — Polyvinyl Chloride and Copolymers Production;
 - (g) Subpart L — Coke Oven Batteries;
 - (h) Subpart M — Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;
 - (i) Subpart N — Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;
 - (j) Subpart O — Ethylene Oxide Emissions Standards for Sterilization Facilities;
 - (k) Subpart Q — Industrial Process Cooling Towers;
 - (l) Subpart R — Gasoline Distribution (Bulk Gasoline Terminals and Pipeline Breakout Stations);
 - (m) Subpart S — Pulp and Paper Industry;
 - (n) Subpart T — Halogenated Solvent Cleaning;
 - (o) Subpart U — Group I Polymers and Resins;

- (p) Subpart W — Epoxy Resins and Non-Nylon Polyamides Production;
- (q) Subpart X — Secondary Lead Smelting;
- (r) Subpart Y — Marine Tank Vessel Loading Operations;
- (s) Subpart AA — Phosphoric Acid Manufacturing Plants;
- (t) Subpart BB — Phosphate Fertilizer Production Plants;
- (u) Subpart CC — Petroleum Refineries;
- (v) Subpart DD — Off-Site Waste and Recovery Operations;
- (w) Subpart EE — Magnetic Tape Manufacturing Operations;
- (x) Subpart GG — Aerospace Manufacturing and Rework Facilities;
- (y) Subpart HH — Oil and Natural Gas Production Facilities;
- (z) Subpart II — Shipbuilding and Ship Repair (Surface Coating);
- (aa) Subpart JJ — Wood Furniture Manufacturing Operations;
- (bb) Subpart KK — Printing and Publishing Industry;
- (cc) Subpart LL — Primary Aluminum Reduction Plants;
- (dd) Subpart MM — Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-Chemical Pulp Mills;
- (ee) Subpart NN — Area Sources: Wool Fiberglass Manufacturing;
- (ff) Subpart OO — Tanks — Level 1;
- (gg) Subpart PP — Containers;
- (hh) Subpart QQ — Surface Impoundments;
- (ii) Subpart RR — Individual Drain Systems;
- (jj) Subpart SS — Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process;
- (kk) Subpart TT — Equipment Leaks — Control Level 1;
- (ll) Subpart UU — Equipment Leaks — Control Level 2;
- (mm) Subpart VV — Oil-Water Separators and Organic-Water Separators;

- (nn) Subpart WW — Storage Vessels (Tanks) — Control Level 2;
- (oo) Subpart XX — Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations;
- (pp) Subpart YY — Generic Maximum Achievable Control Technology Standards;
- (qq) Subpart CCC — Steel Pickling — HCl Process Facilities and Hydrochloric Acid Regeneration Plants;
- (rr) Subpart DDD — Mineral Wool Production;
- (ss) Subpart EEE — Hazardous Waste Combustors;
- (tt) Subpart GGG — Pharmaceuticals Production;
- (uu) Subpart HHH — Natural Gas Transmission and Storage Facilities;
- (vv) Subpart III — Flexible Polyurethane Foam Production;
- (ww) Subpart JJJ — Group IV Polymers and Resins;
- (xx) Subpart LLL — Portland Cement Manufacturing Industry;
- (yy) Subpart MMM — Pesticide Active Ingredient Production;
- (zz) Subpart NNN — Wool Fiberglass Manufacturing;
- (aaa) Subpart OOO — Manufacture of Amino/Phenolic Resins. The standards adopted by reference replaces the language of §63.1405(b)(2)(i) with: The owner or operator of a back-end continuous process vent shall reduce total organic HAP emissions to less than or equal to 0.95 kilograms of total organic HAP per megagram of resin produced (1.9 pounds of total organic HAP per ton of resin produced);
- (bbb) Subpart PPP — Polyether Polyols Production;
- (ccc) Subpart QQQ — Primary Copper Smelting;
- (ddd) Subpart RRR — Secondary Aluminum Production;
- (eee) Subpart TTT — Primary Lead Smelting;
- (fff) Subpart UUU — Petroleum Refineries — Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units;
- (ggg) Subpart VVV — Publicly Owned Treatment Works;
- (hhh) Subpart XXX — Ferroalloys Production: Ferromanganese and Silicomanganese;

- (iii) Subpart AAAA — Municipal Solid Waste Landfills;
- (jjj) Subpart CCCC — Manufacturing of Nutritional Yeast;
- (kkk) Subpart DDDD — Plywood and Composite Wood Products. Standards adopted include final rule promulgations through August 13, 2020 of the C.F.R.;
- (lll) Subpart EEEE — Organic Liquids Distribution (non-gasoline);
- (mmm) Subpart FFFF — Miscellaneous Organic Chemical Manufacturing;
- (nnn) Subpart GGGG — Solvent Extraction for Vegetable Oil Production;
- (ooo) Subpart HHHH — Wet Formed Fiberglass Mat Production;
- (ppp) Subpart IIII — Surface Coating of Automobiles and Light-Duty Trucks;
- (qqq) Subpart JJJJ — Paper and Other Web Coating;
- (rrr) Subpart KKKK — Surface Coating of Metal Cans;
- (sss) Subpart MMMM — Surface Coating of Miscellaneous Metal Parts and Products;
- (ttt) Subpart NNNN — Surface Coating of Large Appliances;
- (uuu) Subpart OOOO — Printing, Coating, and Dyeing of Fabrics and Other Textiles;
- (vvv) Subpart PPPP — Surface Coating of Plastic Parts and Products;
- (www) Subpart QQQQ — Surface Coating of Wood Building Products;
- (xxx) Subpart RRRR — Surface Coating of Metal Furniture;
- (yyy) Subpart SSSS — Surface Coating of Metal Coil;
- (zzz) Subpart TTTT — Leather Finishing Operations;
- (aaa) Subpart UUUU — Cellulose Production Manufacturing;
- (bbb) Subpart VVVV — Boat Manufacturing;
- (ccc) Subpart WWWW — Reinforced Plastics Composites Production;
- (ddd) Subpart XXXX — Rubber Tire Manufacturing;
- (eee) Subpart YYYYY — Stationary Combustion Turbines;
- (fff) Subpart ZZZZ — Reciprocating Internal Combustion Engines (adopted only for sources required to have a Title V or ACDP permit);

- (gggg) Subpart AAAAAA — Lime Manufacturing;
- (hhhh) Subpart BBBBBB — Semiconductor Manufacturing;
- (iiii) Subpart CCCCCC — Coke Ovens: Pushing, Quenching & Battery Stacks;
- (jjjj) Subpart DDDDD — Industrial, Commercial, and Institutional Boilers and Process Heaters;
- (kkkk) Subpart EEEEE — Iron and Steel Foundries;
- (llll) Subpart FFFFFF — Integrated Iron and Steel Manufacturing Facilities;
- (mmmm) Subpart GGGGG — Site Remediation;
- (nnnn) Subpart HHHHH — Misc. Coating Manufacturing;
- (oooo) Subpart IIIII — Mercury Cell Chlor-Alkali Plants;
- (pppp) Subpart JJJJJ — Brick and Structural Clay Products Manufacturing;
- (qqqq) Subpart KKKKK — Clay Ceramics Manufacturing;
- (rrrr) Subpart LLLLL — Asphalt Processing & Asphalt Roofing Manufacturing;
- (ssss) Subpart MMMMM — Flexible Polyurethane Foam Fabrication Operations;
- (tttt) Subpart NNNNN — Hydrochloric Acid Production;
- (uuuu) Subpart PTTTT — Engine Tests Cells/Stands;
- (vvvv) Subpart QQQQQ — Friction Materials Manufacturing Facilities;
- (wwww) Subpart RRRRR — Taconite Iron Ore Processing;
- (xxxx) Subpart SSSSS — Refractory Products Manufacturing;
- (yyyy) Subpart TTTTT — Primary Magnesium Refining;
- (zzzz) Subpart UUUUU — Coal- and Oil-Fired Electric Utility Steam Generating Units. Standards adopted include final rule promulgations through July 1, 2018 of the C.F.R.;
- (aaaa) Subpart WWWW — Area Sources: Hospital Ethylene Oxide Sterilization;
- (bbbb) Subpart YYYYY — Area Sources: Electric Arc Furnace Steelmaking Facilities;
- (cccc) Subpart ZZZZ — Area Sources: Iron and Steel Foundries;

(ddddd) Subpart BBBBBB — Area Sources: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities;

(eeee) Subpart DDDDDD — Area Sources: Polyvinyl Chloride and Copolymers Production;

(ffff) Subpart EEEEE — Area Sources: Primary Copper Smelting;

(ggggg) Subpart FFFFFFF — Area Sources: Secondary Copper Smelting;

(hhhhh) Subpart GGGGGG — Area Sources: Primary Nonferrous Metals — Zinc, Cadmium, and Beryllium;

(iiii) Subpart HHHHHH — Area Sources: Paint Stripping and Miscellaneous Surface Coating Operations;

(jjjj) Subpart JJJJJ — Area Sources: Industrial, Commercial, and Institutional Boilers (adopted only for sources required to have a Title V or ACDP permit);

(kkkkk) Subpart LLLLLL — Area Sources: Acrylic and Modacrylic Fibers Production;

(llll) Subpart MMMMMM — Area Sources: Carbon Black Production;

(mmmmm) Subpart NNNNNN — Area Sources: Chemical Manufacturing: Chromium Compounds;

(nnnnn) Subpart OOOOOO — Area Sources: Flexible Polyurethane Foam Production;

(oooo) Subpart PPPPPP — Area Sources: Lead Acid Battery Manufacturing;

(ppppp) Subpart QQQQQQ — Area Sources: Wood Preserving;

(qqqqq) Subpart RRRRRR — Area Sources: Clay Ceramics Manufacturing;

(rrrrr) Subpart SSSSSS — Area Sources: Glass Manufacturing;

(sssss) Subpart TTTTTT — Area Sources: Secondary Nonferrous Metals Processing;

(ttttt) Subpart VVVVVV — Area Sources: Chemical Manufacturing;

(uuuuu) Subpart WWWWWW — Area Source: Plating and Polishing Operations;

(vvvvv) Subpart XXXXXX — Area Source: Nine Metal Fabrication and Finishing Source Categories;

(wwwww) Subpart YYYYYY — Area Sources: Ferroalloys Production Facilities;

(xxxxx) Subpart ZZZZZZ — Area Sources: Aluminum, Copper, and Other Nonferrous Foundries;

(yyyyy) Subpart AAAAAAA – Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing;

(zzzzz) Subpart BBBBBBBB — Area Sources: Chemical Preparations Industry;

(aaaaaa) Subpart CCCCCC — Area Sources: Paints and Allied Products Manufacturing;

(bbbbbb) Subpart DDDDDDD — Area Sources: Prepared Feeds Manufacturing;

(cccccc) Subpart EEEEEEE — Area Sources: Gold Mine Ore Processing and Production;

(dddddd) Subpart HHHHHHH — Polyvinyl Chloride and Copolymers Production.

Statutory/Other Authority: ORS 468.020

Statutes/Other Implemented: ORS 468A.025

History:

[DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019](#)

DEQ 6-2017, f. & cert. ef. 7-13-17

DEQ 8-2015, f. & cert. ef. 4-17-15

DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 8-2009, f. & cert. ef. 12-16-09

DEQ 15-2008, f. & cert. ef. 12-31-08

DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 4-2003, f. & cert. ef. 2-06-03

DEQ 15-2001, f. & cert. ef. 12-26-01

DEQ 11-2000, f. & cert. ef. 7-27-00

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0510, 340-032-5520

DEQ 32-1994, f. & cert. ef. 12-22-94

DEQ 18-1993, f. & cert. ef. 11-4-93

DEQ 18-1998, f. & cert. ef. 10-5-98

DEQ 28-1996, f. & cert. ef. 12-19-96

DEQ 16-1995, f. & cert. ef. 6-21-95

340-244-8990

CAGM Rules Savings Provision

~~(1) The owner or operator of a source that meets the applicability requirements of either the Revised Colored Art Glass Manufacturing Facility Rules, OAR 340-245-9000 through 340-245-9080 or the Colored Art Glass Manufacturing Facility Rules, OAR 340-244-9000 through 340-244-9090 must comply with OAR 340-245-9000 through 340-245-9080 and is subject to Cleaner Air Oregon rules, OAR 340-245-0005 through 340-245-8050, except as provided in sections (2) or (3).~~

~~(2) In the event that Cleaner Air Oregon rules, OAR 340-245-0005 through 340-245-8050 are subject to judicial challenge and a court order or injunction is issued that stays any rule or rules in OAR 340-245-0005 through 340-245-8050, then the owner or operator must comply~~

~~with the Colored Art Glass Manufacturing Facility Rules, OAR 340-244-9000 through 340-244-9090 for so long as the court order or injunction that stays any rule or rules in OAR 340-245-0005 through 340-245-8050 remains in effect.~~

~~(3) In the event that a court issues an order that invalidates or repeals Cleaner Air Oregon rules, OAR 340-245-0005 through 340-245-8050, in whole or in part, then the owner or operator must comply with the Colored Art Glass Manufacturing Facility Rules, OAR 340-244-9000 through 340-244-9090.~~

~~**Statutory/Other Authority:** ORS 468.020, 468A.025 & 468A.040~~

~~**Statutes/Other Implemented:** 468A.025 & 468A.040~~

~~**History:**~~

~~DEQ 197-2018, adopt filed 11/16/2018, effective 11/16/2018~~

~~**340-244-9000**~~

~~**Colored Art Glass Manufacturing Facility Rules: Applicability and Jurisdiction**~~

~~**NOTE:** Application of these rules is subject to OAR 340-244-8990.~~

~~Notwithstanding OAR 340 division 246, OAR 340-244-9000 through 9090 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 340-244-9000 through 9090 within its area of jurisdiction.~~

~~**Statutory/Other Authority:** ORS 468.020, 468A.025 & 468A.040~~

~~**Statutes/Other Implemented:** ORS 468A.025 & 468A.040~~

~~**History:**~~

~~DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018~~

~~DEQ 10-2016, f. & cert. ef. 10-3-16~~

~~DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16~~

~~**340-244-9010**~~

~~**Colored Art Glass Manufacturing Facility Rules: Definitions**~~

~~The definitions in OAR 340-200-0020 and this rule apply to OAR 340-244-9000 through 9090. 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 340-244-9000 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.~~

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.040

Statutes/Other Implemented: ORS 468A.025 & 468A.040

History:

DEQ 10-2016, f. & cert. ef. 10-3-16

DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16

~~340-244-9015~~

~~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 340-244-9020 and 9060(1) as applicable.~~

~~Statutory/Other Authority:~~ ~~ORS 468.020, 468A.025 & 468A.040~~

~~Statutes/Other Implemented:~~ ~~ORS 468A.025 & 468A.040~~

~~History:~~

~~DEQ 10-2016, f. & cert. ef. 10-3-16~~

~~340-244-9020~~

~~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 340-216-8010 Table 1, 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.~~

~~Statutory/Other Authority:~~ ~~ORS 468.020, 468A.025 & 468A.040~~

~~Statutes/Other Implemented:~~ ~~ORS 468A.025 & 468A.040~~

~~History:~~

~~DEQ 10-2016, f. & cert. ef. 10-3-16~~

~~DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16~~

~~340-244-9030~~

~~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 340-244-9070.~~

~~(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 340-244-9070.~~

~~(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 340-244-9070.~~

~~(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 340-244-9070.~~

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.040

Statutes/Other Implemented: ORS 468A.025 & 468A.040

History:

~~DEQ 10-2016, f. & cert. ef. 10-3-16~~

~~DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16~~

340-244-9040

~~Colored Art Glass Manufacturing Facility Rules: Operating Restrictions That Apply To Tier 2 CAGMs~~

~~(1) Subject to the limitations in OAR 340-244-9030, and except as allowed in section (2), Tier 2 CAGMs may use raw materials containing chromium in glassmaking furnaces only if 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 340-244-9030(1), (3) and (4), raw materials containing chromium may be used in glassmaking furnaces for the purpose of conducting the emissions testing 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.~~

~~(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 will be subject to maximum usage rates established by DEQ.~~

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.040

Statutes/Other Implemented: ORS 468A.025 & 468A.040

History:

~~DEQ 10-2016, f. & cert. ef. 10-3-16~~

~~DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16~~

340-244-9050

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 (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 340-244-9070;~~

~~(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~~

~~(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 (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 340-244-9070;~~

~~(b) Demonstrate that the glassmaking furnace or group of glassmaking furnaces meets the exemption in section (3) for selenium; or~~

~~(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 [NOTE: Method found in the DEQ Source Sampling Manual published at OAR 340-200-0035]; 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 receptor approved by DEQ. Sensitive receptors include, but are not limited to: residences, hospitals, schools, daycare facilities, elderly housing and convalescent facilities.~~

~~[NOTE: View a PDF of referenced EPA and CARB methods by clicking on “Tables” link below.~~

~~[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]~~

~~**Statutory/Other Authority:** ORS 468.020, 468A.025 & 468A.040~~

~~**Statutes/Other Implemented:** ORS 468A.025 & 468A.040~~

~~**History:**~~

~~DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019~~

~~DEQ 10-2016, f. & cert. ef. 10-3-16~~

~~DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16~~

~~**340-244-9060**~~

~~**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.~~

~~**Statutory/Other Authority:** ORS 468.020, 468A.025 & 468A.040~~

~~**Statutes/Other Implemented:** ORS 468A.025 & 468A.040~~

~~**History:**~~

~~DEQ 10-2016, f. & cert. ef. 10-3-16~~

~~DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16~~

~~**340-244-9070**~~

~~**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 340-244-9080.~~

~~(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 340-244-9040(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 [NOTE: DEQ Method 5 is included in DEQ's Source Sampling Manual published with OAR 340-200-0035];~~

~~(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: View a PDF of EPA Method 5 by clicking on "Tables" link below.]~~

~~[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]~~

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.040

Statutes/Other Implemented: ORS 468A.025 & 468A.040

History:

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019

~~DEQ 10-2016, f. & cert. ef. 10-3-16~~

~~DEQ 6-2016(Temp), f. & cert. ef. 5-6-16 thru 10-17-16~~

~~DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16~~

~~340-244-9080~~

~~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.~~

~~Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.040~~

~~Statutes/Other Implemented: ORS 468A.025 & 468A.040~~

~~History:~~

~~DEQ 150-2018, minor correction filed 04/12/2018, effective 04/12/2018~~

~~DEQ 10-2016, f. & cert. ef. 10-3-16~~

~~DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16~~

~~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.~~

~~Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.040~~

~~Statutes/Other Implemented: ORS 468A.025 & 468A.040~~

~~History:~~

~~DEQ 10-2016, f. & cert. ef. 10-3-16~~

~~DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16~~

Division 200
GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

340-200-0035

Reference Materials

As used in divisions 200 through 268, the following materials refer to the versions listed below.

- (1) "C.F.R." means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, 2020 edition.
- (2) The DEQ Source Sampling Manual refers to the November 2018 edition.
- (3) The DEQ Continuous Monitoring Manual refers to the March 2015 edition.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 with the exception of all references to toxic air contaminants and OAR chapter 340, division 245.

[\[ED. NOTE: To view attachments referenced in rule text, click here to view rule.\]](#)

Statutory/Other Authority: ORS 468.020 & 468A

Statutes/Other Implemented: ORS 468A

History:

DEQ 2-2019, minor correction filed 01/07/2019, effective 01/07/2019

DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018

DEQ 53-2017, minor correction filed 12/19/2017, effective 12/19/2017

DEQ 7-2015, f. & cert. ef. 4-16-15

340-200-0040

State of Oregon Clean Air Act Implementation Plan

- (1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the State Implementation Plan (SIP) of the State of Oregon under the FCAA, 42 U.S.C.A 7401 to 7671q.
- (2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR 340 division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the EPA for approval. The SIP was last modified by the EQC on Nov. 19, 2020.
- (3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the EPA any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 C.F.R. 51.102; and

(b) Approve the standards submitted by LRAPA if LRAPA adopts verbatim, other than non-substantive differences, any standard that the EQC has adopted, and submit the standards to EPA for approval as a SIP revision.

(4) Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the EPA. If any provision of the federally approved State Implementation Plan conflicts with any provision adopted by the EQC, DEQ must enforce the more stringent provision.

Statutory/Other Authority: ORS 468.020 & 468A

Statutes/Other Implemented: ORS 468A.035 & 468A.135

History:

DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019
DEQ 14-2019, amend filed 05/17/2019, effective 05/17/2019
DEQ 4-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 192-2018, amend filed 09/14/2018, effective 09/14/2018
DEQ 190-2018, amend filed 07/13/2018, effective 07/13/2018
DEQ 11-2018, amend filed 03/23/2018, effective 03/23/2018
DEQ 7-2017, f. & cert. ef. 7-13-17
DEQ 2-2017, f. & cert. ef. 1-19-17
DEQ 14-2015, f. & cert. ef. 12-10-15
DEQ 10-2015, f. & cert. ef. 10-16-15
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2015, f. & cert. ef. 4-16-15
DEQ 7-2014, f. & cert. ef. 6-26-14
DEQ 6-2014, f. & cert. ef. 3-31-14
DEQ 5-2014, f. & cert. ef. 3-31-14
DEQ 4-2014, f. & cert. ef. 3-31-14
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 12-2013, f. & cert. ef. 12-19-13
DEQ 11-2013, f. & cert. ef. 11-7-13
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 10-2012, f. & cert. ef. 12-11-12
DEQ 7-2012, f. & cert. ef. 12-10-12
DEQ 1-2012, f. & cert. ef. 5-17-12
DEQ 18-2011, f. & cert. ef. 12-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 14-2010, f. & cert. ef. 12-10-10
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 2-2010, f. & cert. ef. 3-5-10

Attachment B: Rules with edits incorporated

Jan. 21-22, 2021, EQC meeting

Page 3 of 20

DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 3-2009, f. & cert. ef. 6-30-09
DEQ 15-2008, f. & cert. ef. 12-31-08
DEQ 14-2008, f. & cert. ef. 11-10-08
DEQ 12-2008, f. & cert. ef. 9-17-08
DEQ 11-2008, f. & cert. ef. 8-29-08
DEQ 5-2008, f. & cert. ef. 3-20-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 4-2007, f. & cert. ef. 6-28-07
DEQ 3-2007, f. & cert. ef. 4-12-07
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 9-2005, f. & cert. ef. 9-9-05
DEQ 7-2005, f. & cert. ef. 7-12-05
DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 1-2005, f. & cert. ef. 1-4-05
DEQ 10-2004, f. & cert. ef. 12-15-04
DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 19-2003, f. & cert. ef. 12-12-03
DEQ 14-2003, f. & cert. ef. 10-24-03
DEQ 5-2003, f. & cert. ef. 2-6-03
DEQ 11-2002, f. & cert. ef. 10-8-02
DEQ 5-2002, f. & cert. ef. 5-3-02
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 17-2001, f. & cert. ef. 12-28-01
DEQ 16-2001, f. & cert. ef. 12-26-01
DEQ 15-2001, f. & cert. ef. 12-26-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 4-2001, f. & cert. ef. 3-27-01
DEQ 2-2001, f. & cert. ef. 2-5-01
DEQ 21-2000, f. & cert. ef. 12-15-00
DEQ 20-2000 f. & cert. ef. 12-15-00
DEQ 17-2000, f. & cert. ef. 10-25-00
DEQ 16-2000, f. & cert. ef. 10-25-00
DEQ 13-2000, f. & cert. ef. 7-28-00
DEQ 8-2000, f. & cert. ef. 6-6-00
DEQ 6-2000, f. & cert. ef. 5-22-00
DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01
DEQ 15-1999, f. & cert. ef. 10-22-99
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047
DEQ 10-1999, f. & cert. ef. 7-1-99
DEQ 6-1999, f. & cert. ef. 5-21-99
DEQ 5-1999, f. & cert. ef. 3-25-99
DEQ 1-1999, f. & cert. ef. 1-25-99
DEQ 21-1998, f. & cert. ef. 10-12-98

Attachment B: Rules with edits incorporated

Jan. 21-22, 2021, EQC meeting

Page 4 of 20

DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 17-1998, f. & cert. ef. 9-23-98
DEQ 16-1998, f. & cert. ef. 9-23-98
DEQ 15-1998, f. & cert. ef. 9-23-98
DEQ 10-1998, f. & cert. ef. 6-22-98
DEQ 24-1996, f. & cert. ef. 11-26-96
DEQ 23-1996, f. & cert. ef. 11-4-96
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 15-1996, f. & cert. ef. 8-14-96
DEQ 8-1996(Temp), f. & cert. ef. 6-3-96
DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95
DEQ 19-1995, f. & cert. ef. 9-1-95
DEQ 17-1995, f. & cert. ef. 7-12-95
DEQ 14-1995, f. & cert. ef. 5-25-95
DEQ 10-1995, f. & cert. ef. 5-1-95
DEQ 9-1995, f. & cert. ef. 5-1-95
DEQ 25-1994, f. & cert. ef. 11-2-94
DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94
DEQ 14-1994, f. & cert. ef. 5-31-94
DEQ 5-1994, f. & cert. ef. 3-21-94
DEQ 1-1994, f. & cert. ef. 1-3-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 17-1993, f. & cert. ef. 11-4-93
DEQ 16-1993, f. & cert. ef. 11-4-93
DEQ 15-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93
DEQ 8-1993, f. & cert. ef. 5-11-93
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 27-1992, f. & cert. ef. 11-12-92
DEQ 26-1992, f. & cert. ef. 11-2-92
DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92
DEQ 20-1992, f. & cert. ef. 8-11-92
DEQ 19-1992, f. & cert. ef. 8-11-92
DEQ 7-1992, f. & cert. ef. 3-30-92
DEQ 3-1992, f. & cert. ef. 2-4-92
DEQ 1-1992, f. & cert. ef. 2-4-92
DEQ 25-1991, f. & cert. ef. 11-13-91
DEQ 24-1991, f. & cert. ef. 11-13-91
DEQ 23-1991, f. & cert. ef. 11-13-91
DEQ 22-1991, f. & cert. ef. 11-13-91
DEQ 21-1991, f. & cert. ef. 11-13-91
DEQ 20-1991, f. & cert. ef. 11-13-91
DEQ 19-1991, f. & cert. ef. 11-13-91
DEQ 2-1991, f. & cert. ef. 2-14-91
DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88

DEQ 21-1987, f. & cert. ef. 12-16-87
DEQ 8-1987, f. & cert. ef. 4-23-87
DEQ 5-1987, f. & cert. ef. 3-2-87
DEQ 4-1987, f. & cert. ef. 3-2-87
DEQ 21-1986, f. & cert. ef. 11-7-86
DEQ 20-1986, f. & cert. ef. 11-7-86
DEQ 10-1986, f. & cert. ef. 5-9-86
DEQ 5-1986, f. & cert. ef. 2-21-86
DEQ 12-1985, f. & cert. ef. 9-30-85
DEQ 3-1985, f. & cert. ef. 2-1-85
DEQ 25-1984, f. & cert. ef. 11-27-84
DEQ 18-1984, f. & cert. ef. 10-16-84
DEQ 6-1983, f. & cert. ef. 4-18-83
DEQ 1-1983, f. & cert. ef. 1-21-83
DEQ 21-1982, f. & cert. ef. 10-27-82
DEQ 14-1982, f. & cert. ef. 7-21-82
DEQ 11-1981, f. & cert. ef. 3-26-81
DEQ 22-1980, f. & cert. ef. 9-26-80
DEQ 21-1979, f. & cert. ef. 7-2-79
DEQ 19-1979, f. & cert. ef. 6-25-79
DEQ 54, f. 6-21-73, cert. ef. 7-1-73
DEQ 35, f. 2-3-72, cert. ef. 2-15-72

Division 238
NEW SOURCE PERFORMANCE STANDARDS

340-238-0040

Definitions

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

- (1) "Administrator" means the Administrator of the EPA or authorized representative.
- (2) "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.
- (3) "Capital expenditures" means an expenditure for a physical or operational change to an existing facility that exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.
- (4) "C.F.R." means the July 1, 2020 edition Code of Federal Regulations unless otherwise identified.

(5) "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 C.F.R. 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.

(6) "Commenced", with respect to the definition of "new source" in section 111(a)(2) of the federal Clean Air Act, means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(7) "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before 5/30/91 and has accepted waste at any time since 11/08/87 or has additional design capacity available for future waste deposition.

(8) "Existing facility", with reference to a stationary source, means any apparatus of the type for which a standard is promulgated in 40 C.F.R. Part 60, and the construction or modification of which commenced before the date of proposal by EPA of that standard; or any apparatus that could be altered in such a way as to be of that type.

(9) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(10) "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters.

(11) "Modification:"

(a) except as provided in subsection (b) of this section, means any physical change in, or change in the method of operation of, an existing facility that increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or that results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted;

(b) As used in OAR 340-238-0100 means an action that results in an increase in the design capacity of a landfill.

(12) "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification).

(13) "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after 5/30/91.

(14) "Reconstruction" means the replacement of components of an existing facility to such an extent that:

(a) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility; and

(b) It is technologically and economically feasible to meet the applicable standards set forth in 40 C.F.R. Part 60.

(15) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 C.F.R. Part 60.

(16) "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters.

(17) "Standard" means a standard of performance proposed or promulgated under 40 C.F.R. Part 60.

(18) "State Plan" means a plan developed for the control of a designated pollutant provided under 40 C.F.R. Part 60.

Statutory/Other Authority: ORS 468.020

Statutes/Other Implemented: ORS 468A.025

History:

DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019

DEQ 6-2017, f. & cert. ef. 7-13-17

DEQ 8-2015, f. & cert. ef. 4-17-15

DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 8-2009, f. & cert. ef. 12-16-09

DEQ 15-2008, f. & cert. ef. 12-31-08

DEQ 13-2006, f. & cert. ef. 12-22-06

DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 4-2003, f. & cert. ef. 2-06-03

DEQ 22-2000, f. & cert. ef. 12-18-00

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0510

DEQ 22-1998, f. & cert. ef. 10-21-98

DEQ 8-1997, f. & cert. ef. 5-6-97

DEQ 27-1996, f. & cert. ef. 12-11-96

DEQ 22-1995, f. & cert. ef. 10-6-95

DEQ 17-1993, f. & cert. ef. 11-4-93

DEQ 4-1993, f. & cert. ef. 3-10-93

DEQ 24-1989, f. & cert. ef. 10-26-89

DEQ 17-1987, f. & ef. 8-24-87

DEQ 19-1986, f. & ef. 11-7-86

DEQ 15-1985, f. & ef. 10-21-85

DEQ 16-1984, f. & ef. 8-21-84

DEQ 17-1983, f. & ef. 10-19-83

DEQ 22-1982, f. & ef. 10-21-82

DEQ 97, f. 9-2-75, ef. 9-25-75

Division 244

OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM

340-244-0030

General Provisions for Stationary Sources: Definitions

The definitions in OAR 340-200-0020, 340-218-0030 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020 or 340-218-0030, the definition in this rule applies to this division.

(1) "Affected source" is as defined in 40 C.F.R. 63.2.

(2) "Annual throughput" means the amount of gasoline transferred into a gasoline dispensing facility during 12 consecutive months.

(3) "Area Source" means any stationary source which has the potential to emit hazardous air pollutants but is not a major source of hazardous air pollutants.

(4) "C.F.R." means the July 1, 2020 edition Code of Federal Regulations unless otherwise identified.

(5) "Construct a major source" means to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP, or to fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria in paragraphs (a) through (f) of this definition:

(a) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of 40 C.F.R. Part 63, Subpart B will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(b) DEQ has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 C.F.R. Part 51 or 52, toxics-best available control technology (T-BACT),

or MACT based on State air toxic rules for the category of pollutants which includes those HAP to be emitted by the process or production unit; or DEQ determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or State air toxic rule MACT determination).

(c) DEQ determines that the percent control efficiency for emission of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(d) DEQ has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (a), (b), and (c) of this definition apply and concerning the continued adequacy of any prior LAER, BACT, T-BACT, or State air toxic rule MACT determination;

(e) If any commenter has asserted that a prior LAER, BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, DEQ has determined that the level of control required by that prior determination remains adequate; and

(f) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by DEQ are predicated will be construed by DEQ as applicable requirements under section 504(a) and either have been incorporated into any existing Title V permit for the affected facility or will be incorporated into such permit upon issuance.

(6) "Dual-point vapor balance system" means a type of vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.

(7) "Emissions Limitation" and "Emissions Standard" mean a requirement adopted by DEQ or Regional Agency, or proposed or promulgated by the Administrator of the EPA, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(8) "Equipment leaks" means leaks from pumps, compressors, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, agitators, accumulator vessels, and instrumentation systems in hazardous air pollutant service.

(9) "Existing Source" means any source, the construction of which commenced prior to proposal of an applicable standard under sections 112 or 129 of the FCAA.

(10) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

(11) "Gasoline" means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals (4.0 psi) or greater, which is used as a fuel for internal combustion engines.

(12) "Gasoline cargo tank" means a delivery tank truck or railcar which is loading or unloading gasoline, or which has loaded or unloaded gasoline on the immediately previous load.

(13) "Gasoline dispensing facility (GDF) " means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline fueled engines and equipment. In Clackamas, Multnomah and Washington Counties, the Medford-Ashland Air Quality Maintenance Area, and the Salem-Keizer Area Transportation Study area, "gasoline dispensing facility" includes any stationary facility which dispenses gasoline into the fuel tank of an airplane.

(14) "Hazardous Air Pollutant" (HAP) means an air pollutant listed by the EPA under section 112(b) of the FCAA or determined by the Commission to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.

(15) "Major Source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The EPA may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

(16) "Maximum Achievable Control Technology (MACT)" means an emission standard applicable to major sources of hazardous air pollutants that requires the maximum degree of reduction in emissions deemed achievable for either new or existing sources.

(17) "Monthly throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at each GDF during a month. Monthly throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the current day, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the previous 364 days, and then dividing that sum by 12.

(18) "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(19) "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 of this title or section 7521 of this title.

(20) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, and that is not a motor vehicle or a vehicle used solely for competition.

(21) "New Source" means a stationary source, the construction of which is commenced after proposal of a federal MACT or January 3, 1993 of this Division, whichever is earlier.

(22) "Potential to Emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, must be treated as part of its design if the limitation is enforceable by the EPA. This section does not alter or affect the use of this section for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder. Secondary emissions shall not be considered in determining the potential to emit of a source.

(23) "Reconstruct a Major Source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever: the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and; it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under 40 C.F.R. Part 63 Subpart B.

(24) "Regulated Air Pollutant" as used in this Division means:

(a) Any pollutant listed under OAR 340-244-0040; or

(b) Any pollutant that is subject to a standard promulgated under Section 129 of the Act.

(25) "Section 112(n)" means that subsection of the FCAA that includes requirements for the EPA to conduct studies on the hazards to public health prior to developing emissions standards for specified categories of hazardous air pollutant emission sources.

(26) "Section 112(r)" means that subsection of the FCAA that includes requirements for the EPA promulgate regulations for the prevention, detection and correction of accidental releases.

(27) "Solid Waste Incineration Unit" as used in this Division has the same meaning as given in Section 129(g) of the FCAA.

(28) "Stationary Source", as used in OAR 340 division 244, means any building, structure, facility, or installation which emits or may emit any regulated air pollutant;

(29) "Submerged filling" means the filling of a gasoline storage tank through a submerged fill pipe whose discharge is no more than the applicable distance specified in OAR 340-244-

0240(3) from the bottom of the tank. Bottom filling of gasoline storage tanks is included in this definition.

(30) "Topping off" means, in the absence of equipment malfunction, continuing to fill a gasoline tank after the nozzle has clicked off.

(31) "Vapor balance system" means a combination of pipes and hoses that create a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank such that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.

(32) "Vapor-tight" means equipment that allows no loss of vapors. Compliance with vapor-tight requirements can be determined by checking to ensure that the concentration at a potential leak source is not equal to or greater than 100 percent of the Lower Explosive Limit when measured with a combustible gas detector, calibrated with propane, at a distance of 1 inch from the source.

(33) "Vapor-tight gasoline cargo tank" means a gasoline cargo tank which has demonstrated within the 12 preceding months that it meets the annual certification test requirements in 40 C.F.R. 63.11092(f).

[Publications: Publications referenced are available from DEQ.]

Statutory/Other Authority: ORS 468.020 & 468A.025

Statutes/Other Implemented: ORS 468A.040

History:

DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019

DEQ 6-2017, f. & cert. ef. 7-13-17

DEQ 8-2015, f. & cert. ef. 4-17-15

DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 8-2009, f. & cert. ef. 12-16-09

DEQ 15-2008, f. & cert. ef. 12-31-08

DEQ 13-2006, f. & cert. ef. 12-22-06

DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0120

DEQ 18-1998, f. & cert. ef. 10-5-98

DEQ 20-1997, f. & cert. ef. 9-25-97

DEQ 26-1996, f. & cert. ef. 11-26-96

DEQ 22-1995, f. & cert. ef. 10-6-95

DEQ 24-1994, f. & cert. ef. 10-28-94

DEQ 18-1993, f. & cert. ef. 11-4-93

DEQ 13-1993, f. & cert. ef. 9-24-93

340-244-0220

Emission Standards: Federal Regulations Adopted by Reference

(1) Except as provided in sections (2) and (3) of this rule, 40 C.F.R. Part 61, Subparts A, C through F, J, L, N through P, V, Y, BB, and FF and 40 C.F.R. Part 63, Subparts A, F through J, L through O, Q through U, W through Y, AA through EE, GG through YY, CCC through EEE, GGG through JJJ, LLL through RRR, TTT through VVV, XXX, AAAA, CCCC through KKKK, MMMM through YYYY, AAAAA through NNNNN, PPPPP through UUUUU, WWWWW, YYYYY, ZZZZZ, BBBBBB, DDDDDD through HHHHHH, LLLLLL through TTTTTT, VVVVVV through EEEEEEE, and HHHHHHH are adopted by reference and incorporated herein, and 40 C.F.R. Part 63, Subparts ZZZZ and JJJJJ are by this reference adopted and incorporated herein only for sources required to have a Title V or ACDP permit.

(2) Where "Administrator" or "EPA" appears in 40 C.F.R. Part 61 or 63, "DEQ" is substituted, except in any section of 40 C.F.R. Part 61 or 63, for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.

(3) 40 C.F.R. Part 63 Subpart M — Dry Cleaning Facilities using Perchloroethylene: The exemptions in 40 C.F.R. 63.320(d) and (e) do not apply.

(4) 40 C.F.R. Part 61 Subparts adopted by this rule are titled as follows:

(a) Subpart A — General Provisions;

(b) Subpart C — Beryllium;

(c) Subpart D — Beryllium Rocket Motor Firing;

(d) Subpart E — Mercury;

(e) Subpart F — Vinyl Chloride;

(f) Subpart J — Equipment Leaks (Fugitive Emission Sources) of Benzene;

(g) Subpart L — Benzene Emissions from Coke By-Product Recovery Plants;

(h) Subpart N — Inorganic Arsenic Emissions from Glass Manufacturing Plants;

(i) Subpart O — Inorganic Arsenic Emissions from Primary Copper Smelters;

(j) Subpart P — Inorganic Arsenic Emissions from Arsenic Trioxide and Metal Arsenic Facilities;

(k) Subpart V — Equipment Leaks (Fugitive Emission Sources);

(l) Subpart Y — Benzene Emissions from Benzene Storage Vessels;

(m) Subpart BB — Benzene Emissions from Benzene Transfer Operations; and

(n) Subpart FF — Benzene Waste Operations.

(5) 40 C.F.R. Part 63 Subparts adopted by this rule are titled as follows:

- (a) Subpart A — General Provisions;
- (b) Subpart F — SOCFI;
- (c) Subpart G — SOCFI — Process Vents, Storage Vessels, Transfer Operations, and Wastewater;
- (d) Subpart H — SOCFI — Equipment Leaks;
- (e) Subpart I — Certain Processes Subject to the Negotiated Regulation for Equipment Leaks;
- (f) Subpart J — Polyvinyl Chloride and Copolymers Production;
- (g) Subpart L — Coke Oven Batteries;
- (h) Subpart M — Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;
- (i) Subpart N — Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;
- (j) Subpart O — Ethylene Oxide Emissions Standards for Sterilization Facilities;
- (k) Subpart Q — Industrial Process Cooling Towers;
- (l) Subpart R — Gasoline Distribution (Bulk Gasoline Terminals and Pipeline Breakout Stations);
- (m) Subpart S — Pulp and Paper Industry;
- (n) Subpart T — Halogenated Solvent Cleaning;
- (o) Subpart U — Group I Polymers and Resins;
- (p) Subpart W — Epoxy Resins and Non-Nylon Polyamides Production;
- (q) Subpart X — Secondary Lead Smelting;
- (r) Subpart Y — Marine Tank Vessel Loading Operations;
- (s) Subpart AA — Phosphoric Acid Manufacturing Plants;
- (t) Subpart BB — Phosphate Fertilizer Production Plants;
- (u) Subpart CC — Petroleum Refineries;
- (v) Subpart DD — Off-Site Waste and Recovery Operations;

- (w) Subpart EE — Magnetic Tape Manufacturing Operations;
- (x) Subpart GG — Aerospace Manufacturing and Rework Facilities;
- (y) Subpart HH — Oil and Natural Gas Production Facilities;
- (z) Subpart II — Shipbuilding and Ship Repair (Surface Coating);
- (aa) Subpart JJ — Wood Furniture Manufacturing Operations;
- (bb) Subpart KK — Printing and Publishing Industry;
- (cc) Subpart LL — Primary Aluminum Reduction Plants;
- (dd) Subpart MM — Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-Chemical Pulp Mills;
- (ee) Subpart NN — Area Sources: Wool Fiberglass Manufacturing;
- (ff) Subpart OO — Tanks — Level 1;
- (gg) Subpart PP — Containers;
- (hh) Subpart QQ — Surface Impoundments;
- (ii) Subpart RR — Individual Drain Systems;
- (jj) Subpart SS — Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process;
- (kk) Subpart TT — Equipment Leaks — Control Level 1;
- (ll) Subpart UU — Equipment Leaks — Control Level 2;
- (mm) Subpart VV — Oil-Water Separators and Organic-Water Separators;
- (nn) Subpart WW — Storage Vessels (Tanks) — Control Level 2;
- (oo) Subpart XX — Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations;
- (pp) Subpart YY — Generic Maximum Achievable Control Technology Standards;
- (qq) Subpart CCC — Steel Pickling — HCl Process Facilities and Hydrochloric Acid Regeneration Plants;
- (rr) Subpart DDD — Mineral Wool Production;
- (ss) Subpart EEE — Hazardous Waste Combustors;

(tt) Subpart GGG — Pharmaceuticals Production;

(uu) Subpart HHH — Natural Gas Transmission and Storage Facilities;

(vv) Subpart III — Flexible Polyurethane Foam Production;

(ww) Subpart JJJ — Group IV Polymers and Resins;

(xx) Subpart LLL — Portland Cement Manufacturing Industry;

(yy) Subpart MMM — Pesticide Active Ingredient Production;

(zz) Subpart NNN — Wool Fiberglass Manufacturing;

(aaa) Subpart OOO — Manufacture of Amino/Phenolic Resins. The standards adopted by reference replaces the language of §63.1405(b)(2)(i) with: The owner or operator of a back-end continuous process vent shall reduce total organic HAP emissions to less than or equal to 0.95 kilograms of total organic HAP per megagram of resin produced (1.9 pounds of total organic HAP per ton of resin produced);

(bbb) Subpart PPP — Polyether Polyols Production;

(ccc) Subpart QQQ — Primary Copper Smelting;

(ddd) Subpart RRR — Secondary Aluminum Production;

(eee) Subpart TTT — Primary Lead Smelting;

(fff) Subpart UUU — Petroleum Refineries — Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units;

(ggg) Subpart VVV — Publicly Owned Treatment Works;

(hhh) Subpart XXX — Ferroalloys Production: Ferromanganese and Silicomanganese;

(iii) Subpart AAAA — Municipal Solid Waste Landfills;

(jjj) Subpart CCCC — Manufacturing of Nutritional Yeast;

(kkk) Subpart DDDD — Plywood and Composite Wood Products. Standards adopted include final rule promulgations through August 13, 2020 of the C.F.R.;

(lll) Subpart EEEE — Organic Liquids Distribution (non-gasoline);

(mmm) Subpart FFFF — Miscellaneous Organic Chemical Manufacturing;

(nnn) Subpart GGGG — Solvent Extraction for Vegetable Oil Production;

(ooo) Subpart HHHH — Wet Formed Fiberglass Mat Production;

- (ppp) Subpart IIII — Surface Coating of Automobiles and Light-Duty Trucks;
- (qqq) Subpart JJJJ — Paper and Other Web Coating;
- (rrr) Subpart KKKK — Surface Coating of Metal Cans;
- (sss) Subpart MMMM — Surface Coating of Miscellaneous Metal Parts and Products;
- (ttt) Subpart NNNN — Surface Coating of Large Appliances;
- (uuu) Subpart OOOO — Printing, Coating, and Dyeing of Fabrics and Other Textiles;
- (vvv) Subpart PPPP — Surface Coating of Plastic Parts and Products;
- (www) Subpart QQQQ — Surface Coating of Wood Building Products;
- (xxx) Subpart RRRR — Surface Coating of Metal Furniture;
- (yyy) Subpart SSSS — Surface Coating of Metal Coil;
- (zzz) Subpart TTTT — Leather Finishing Operations;
- (aaa) Subpart UUUU — Cellulose Production Manufacturing;
- (bbb) Subpart VVVV — Boat Manufacturing;
- (ccc) Subpart WWWW — Reinforced Plastics Composites Production;
- (ddd) Subpart XXXX — Rubber Tire Manufacturing;
- (eee) Subpart YYYY — Stationary Combustion Turbines;
- (fff) Subpart ZZZZ — Reciprocating Internal Combustion Engines (adopted only for sources required to have a Title V or ACDP permit);
- (ggg) Subpart AAAAA — Lime Manufacturing;
- (hhh) Subpart BBBB — Semiconductor Manufacturing;
- (iii) Subpart CCCC — Coke Ovens: Pushing, Quenching & Battery Stacks;
- (jjj) Subpart DDDD – Industrial, Commercial, and Institutional Boilers and Process Heaters;
- (kkk) Subpart EEEEE — Iron and Steel Foundries;
- (lll) Subpart FFFF — Integrated Iron and Steel Manufacturing Facilities;
- (mmm) Subpart GGGG — Site Remediation;

- (nnnn) Subpart HHHHH — Misc. Coating Manufacturing;
- (oooo) Subpart IIIII — Mercury Cell Chlor-Alkali Plants;
- (pppp) Subpart JJJJJ — Brick and Structural Clay Products Manufacturing;
- (qqqq) Subpart KKKKK — Clay Ceramics Manufacturing;
- (rrrr) Subpart LLLLL — Asphalt Processing & Asphalt Roofing Manufacturing;
- (ssss) Subpart MMMMM — Flexible Polyurethane Foam Fabrication Operations;
- (tttt) Subpart NNNNN — Hydrochloric Acid Production;
- (uuuu) Subpart PTTTT — Engine Tests Cells/Stands;
- (vvvv) Subpart QQQQQ — Friction Materials Manufacturing Facilities;
- (wwww) Subpart RRRRR — Taconite Iron Ore Processing;
- (xxxx) Subpart SSSSS — Refractory Products Manufacturing;
- (yyyy) Subpart TTTTT — Primary Magnesium Refining;
- (zzzz) Subpart UUUUU — Coal- and Oil-Fired Electric Utility Steam Generating Units. Standards adopted include final rule promulgations through July 1, 2018 of the C.F.R.;
- (aaaa) Subpart WWWW — Area Sources: Hospital Ethylene Oxide Sterilization;
- (bbbb) Subpart YYYYY — Area Sources: Electric Arc Furnace Steelmaking Facilities;
- (cccc) Subpart ZZZZ — Area Sources: Iron and Steel Foundries;
- (dddd) Subpart BBBBB — Area Sources: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities;
- (eeee) Subpart DDDDD — Area Sources: Polyvinyl Chloride and Copolymers Production;
- (ffff) Subpart EEEEE — Area Sources: Primary Copper Smelting;
- (gggg) Subpart FFFFF — Area Sources: Secondary Copper Smelting;
- (hhhh) Subpart GGGGG — Area Sources: Primary Nonferrous Metals — Zinc, Cadmium, and Beryllium;
- (iiii) Subpart HHHHH — Area Sources: Paint Stripping and Miscellaneous Surface Coating Operations;

(jjjjj) Subpart JJJJJJ — Area Sources: Industrial, Commercial, and Institutional Boilers (adopted only for sources required to have a Title V or ACDP permit);

(kkkkk) Subpart LLLLLL — Area Sources: Acrylic and Modacrylic Fibers Production;

(lllll) Subpart MMMMMM — Area Sources: Carbon Black Production;

(mmmmm) Subpart NNNNNN — Area Sources: Chemical Manufacturing: Chromium Compounds;

(nnnnn) Subpart OOOOOO — Area Sources: Flexible Polyurethane Foam Production;

(ooooo) Subpart PPPPPP — Area Sources: Lead Acid Battery Manufacturing;

(ppppp) Subpart QQQQQQ — Area Sources: Wood Preserving;

(qqqqq) Subpart RRRRRR — Area Sources: Clay Ceramics Manufacturing;

(rrrrr) Subpart SSSSSS — Area Sources: Glass Manufacturing;

(sssss) Subpart TTTTTT — Area Sources: Secondary Nonferrous Metals Processing;

(ttttt) Subpart VVVVVV — Area Sources: Chemical Manufacturing;

(uuuuu) Subpart WWWWWW — Area Source: Plating and Polishing Operations;

(vvvvv) Subpart XXXXXX — Area Source: Nine Metal Fabrication and Finishing Source Categories;

(wwwww) Subpart YYYYYY — Area Sources: Ferroalloys Production Facilities;

(xxxxx) Subpart ZZZZZZ — Area Sources: Aluminum, Copper, and Other Nonferrous Foundries;

(yyyyy) Subpart AAAAAAA — Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing;

(zzzzz) Subpart BBBBBBB — Area Sources: Chemical Preparations Industry;

(aaaaa) Subpart CCCCCC — Area Sources: Paints and Allied Products Manufacturing;

(bbbbb) Subpart DDDDDD — Area Sources: Prepared Feeds Manufacturing;

(ccccc) Subpart EEEEEEE — Area Sources: Gold Mine Ore Processing and Production;

(ddddd) Subpart HHHHHHH — Polyvinyl Chloride and Copolymers Production.

Statutory/Other Authority: ORS 468.020

Statutes/Other Implemented: ORS 468A.025

History:

[DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019](#)

DEQ 6-2017, f. & cert. ef. 7-13-17

DEQ 8-2015, f. & cert. ef. 4-17-15

DEQ 4-2013, f. & cert. ef. 3-27-13

DEQ 1-2011, f. & cert. ef. 2-24-11

DEQ 8-2009, f. & cert. ef. 12-16-09

DEQ 15-2008, f. & cert. ef. 12-31-08

DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 4-2003, f. & cert. ef. 2-06-03

DEQ 15-2001, f. & cert. ef. 12-26-01

DEQ 11-2000, f. & cert. ef. 7-27-00

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0510, 340-032-5520

DEQ 32-1994, f. & cert. ef. 12-22-94

DEQ 18-1993, f. & cert. ef. 11-4-93

DEQ 18-1998, f. & cert. ef. 10-5-98

DEQ 28-1996, f. & cert. ef. 12-19-96

DEQ 16-1995, f. & cert. ef. 6-21-95