

# Proposed Rules: Division 245

Cleaner Air Oregon and Air Toxics Alignment and Updates 2021

April 2021



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DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.



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# Table of Contents

Division 245 Draft Rules .....	4-64
340-245-0005 Purpose and Overview .....	4
340-245-0010 Applicability and Jurisdiction .....	6
340-245-0020 Definitions .....	7
340-245-0022 Abbreviations and Acronyms .....	13
340-245-0030 Submittal and Payment Deadlines .....	14
340-245-0040 Emissions Inventory .....	16
340-245-0050 Risk Assessment Procedures .....	19
340-245-0060 Toxics Emissions Units .....	25
340-245-0100 Toxic Air Contaminant Permit Addenda .....	31
340-245-0110 Source Risk Limits .....	38
340-245-0120 Community Engagement .....	40
340-245-0130 Risk Reduction Requirements .....	41
340-245-0140 Pollution Prevention .....	46
340-245-0150 Postponement of Risk Reduction .....	47
340-245-0200 Risk Estimates .....	49
340-245-0210 Modeling and Risk Assessment Work Plan Requirements .....	53
340-245-0220 TBACT and TLAER Procedures .....	55
340-245-0230 Toxic Air Contaminant Monitoring Requirements .....	57
340-245-0310 Process for Updating Risk-Based Concentrations for Toxic Air Contaminants .....	60
340-245-0320 Standards and Criteria for Noncancer Risk Action Levels for Existing Contamination Sources .....	62
340-245-0400 Cleaner Air Oregon Fees .....	62
340-245-8010 Table 1 - Risk Action Levels .....	63
340-245-8010 Table 2 - Risk-Based Concentrations .....	64
340-245-8010 Table 3 - Level 1 Risk Assessment Dispersion Factors .....	64
340-200-0020 General Air Quality Definitions .....	65
Other Air Quality Divisions .....	65-66

# Division 245 Draft Rules

Last revised: Apr. 16, 2021

## Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

## **Division 245 CLEANER AIR OREGON**

### 340-245-0005

#### **Purpose and Overview**

(1) This statement of purpose and overview is an aid to understanding the rules in OAR 340-245-0010 through 340-245-8050 that follow, and is not for the purpose of regulation or compliance.

(2) Purpose. The purpose of Oregon's risk-based toxic air contaminant permitting program, known as Cleaner Air Oregon, is to:

(a) Prioritize and protect the health and well-being of all Oregonians with a special focus on sensitive populations such as children;

(b) Analyze public health risk due to toxic air contaminant emissions from industrial and commercial sources based on verified science and data;

(c) Consider similar regulations in other states and jurisdictions and use a science-based, consistent and transparent process for communicating and addressing risks from industrial and commercial emissions of toxic air contaminants, provide regulatory predictability to businesses and the communities they are a part of; and

(d) Reduce exposure to industrial and commercial toxic air contaminant emissions while supporting an environment where businesses and communities can thrive.

(3) Overview.

(a) OAR 340-245-0010, Applicability and Jurisdiction, OAR 340-245-0020, Definitions, and OAR 340-245-0022, Abbreviations and Acronyms, describe which sources the risk-based toxic air contaminant permitting program applies to and specifies definitions, abbreviations and acronyms to be used in the program;

(b) OAR 340-245-0030, Submittal and Payment Deadlines, provides the deadlines by which owners or operators must submit risk assessment compliance information when required by DEQ under this division. That rule generally provides owners or operators more time to submit the more complex assessments;

(c) OAR 340-245-0040, Emissions Inventory, authorizes DEQ to require a source to submit an inventory of all of its toxic air contaminant emissions to be used in a risk assessment and to submit periodic emissions inventory updates;

(d) OAR 340-245-0050, Risk Assessment Procedures, includes requirements and procedures for the owners and operators of sources to undertake any of the four levels of risk assessment to demonstrate compliance and determine what requirements apply. The first level of risk assessment is a conservative estimate that is likely to overestimate risk. As the levels progress from Level 1 to Level 4, the assessments become more complex but also provide increasingly more site-specific and refined risk estimates. An owner or operator can choose to start with any level of risk assessment;

(e) OAR 340-245-0060, Toxic Emissions Units, explains how TEUs are analyzed and regulated in the context of assessing and regulating risk from an entire source. This rule includes the criteria for a TEU to be designated exempt or aggregated because it poses very low risk and the requirements for approval of new and modified TEUs;

(f) OAR 340-245-0100, Toxic Air Contaminant Permit Addenda, includes the procedural requirements for obtaining a permit addendum or a new operating permit under these rules. A Toxic Air Contaminant Permit Addendum will amend the source's Air Contaminant Discharge Permit or Title V Operating Permit until the requirements in the addendum can be incorporated into the source's operating permit, but will remain separate for a source that has a General Air Contaminant Discharge Permit;

(g) OAR 340-245-0110, Source Risk Limits, explains how risk limits will be set in Toxic Air Contaminant Permit Addenda or in operating permits with conditions required under this division;

(h) OAR 340-245-0120, Community Engagement, contains requirements for community engagement meetings and other aspects of community engagement;

(i) OAR 340-245-0130, Risk Reduction Plan Requirements, specifies how an owner or operator of an existing source must develop a plan to reduce risk, if required to do so, because the source risk exceeds the TBACT Level or the Risk Reduction Level. Risk can be reduced using a variety of methods as long as they are enforceable as permit conditions and achieve the required level of risk reduction. Provisions for Voluntary Risk Reduction are included in this rule;

(j) OAR 340-245-0140, Pollution Prevention, explains how the owner or operator of a source must perform a pollution prevention analysis when required under OAR 340-245-0130;

(k) OAR 340-245-0150, Postponement of Risk Reduction, specifies how an owner or operator of a source may request postponement of risk reduction due to financial hardship;

(l) OAR 340-245-0200, Risk Estimates, explains how the owner or operator of a source must perform the calculations required in this division. This rule explains how calculations should be rounded to evaluate compliance with Source Risk Limits;

(m) OAR 340-245-0210, Modeling and Risk Assessment Work Plan Requirements, contains air quality modeling and work plan requirements for owners or operators of sources that are required to assess risk;

(n) OAR 340-245-0220, TBACT and TLAER Procedures, explains how the owner or operator of a source must perform, respectively, a Toxics Best Available Control Technology or Toxics Lowest Achievable Emission Rate analysis;

(o) OAR 340-245-0230, Toxic Air Contaminant Monitoring Requirements, allows an owner or operator of a source to perform air monitoring to determine actual concentrations of toxic air contaminants in the ambient air around a source;

(p) OAR 340-245-~~0300, 340-245-0310, and 340-245-0320~~, ~~Toxicity Reference Values~~, Process for Updating ~~Lists of Regulated Toxic Air Contaminants and Their~~ Risk-Based Concentrations; and ~~340-245-0320~~, Standards and Criteria for Noncancer Risk Action Levels for Existing Sources, describe the ~~list of authoritative sources that publish toxicity information that the EQC considers, upon the recommendation of DEQ, in consultation with OHA, to determine the RBCs~~, the process of how the RBCs may be updated; and assignment of hazard index values based on health effects.

**Commented [GJ1]:** These changes are related to the creation of division 247 and moving related TRV language and tables to that new division.

(q) OAR 340-245-0400, Cleaner Air Oregon Fees, specifies the permitting fees that apply to sources subject to the rules in this division; and

(r) OAR 340-245-~~80100 through 340-245-8050~~, Tables ~~1-3~~, include the established Risk Action Levels, ~~lists of the regulated toxic air contaminants, the values used to develop~~ Risk-Based Concentrations and the Level 1 Risk Assessment ~~Dispersion Factor Tables~~; ~~Foot.~~

**Commented [GJ2]:** These changes are related to the creation of division 247 and moving related TRV language and tables to that new division.

(4) The long-term goal of Cleaner Air Oregon is to achieve a 50% reduction in the number of existing sources posing either an excess cancer risk of more than 25 in a million or a Hazard Index of more than 1 by the year 2034.

(5) This program supplements requirements in OAR chapter 340, division 244, Oregon Federal Hazardous Air Pollutant Program, and division 246, Oregon State Air Toxics Program. This program includes four levels of risk assessment and allows sources to choose any level of assessment to assess risk.

**Statutory/Other Authority:-** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, ~~468A.135, 468A.337, 468A.345~~ & Or Laws 2018, ch. 102, §§ ~~3, 7 and 13~~

**Statutes/Other Implemented:-** ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, 468A.155, ~~468A.335, 468A.337, 468A.343, 468A.345~~ & Or Laws 2018, ch. 102, § ~~2, 3, 6, 7 and 13~~

**History:**

DEQ 8-2020, amend filed 04/24/2020, effective 04/24/2020

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

**340-245-0010**

**Applicability and Jurisdiction**

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

**Commented [GJ3]:** The definition of “source” in OAR 340-200-0020 already includes both stationary and portable sources, but DEQ wanted to ensure clarity that TAC emissions from portable sources are regulated under this division (e.g., portable air curtain incinerators).

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

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

(4) This division applies to entire sources as well as to individual TEUs.

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

(a) OAR chapter 340, division 209, Public Participation;

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

- (c) OAR chapter 340, division 212, Stationary Source Testing and Monitoring;
  - (d) OAR chapter 340, division 214, Stationary Source Reporting Requirements;
  - (e) OAR chapter 340, division 216, Air Contaminant Discharge Permits, including fees;
  - (f) OAR chapter 340, division 218, Oregon Title V Operating Permits;
  - (g) OAR chapter 340, division 220, Oregon Title V Operating Permit Fees;
  - (h) OAR chapter 340, division 224, New Source Review;
  - (i) OAR chapter 340, division 226, General Emission Standards;
  - (j) OAR chapter 340, division 244, Oregon Federal Hazardous Air Pollutant Program; and
  - (k) OAR chapter 340, division 246, Oregon State Air Toxics Program.
- (6) Disclaimer. Compliance with this division does not authorize the emission of any toxic air contaminant in violation of any other federal, state, or local law or regulation, or exempt the owner or operator from any other applicable law or regulation.

**Statutory/Other Authority:**- ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, ~~468A.135, ORS 468A.337, ORS 468A.345 & Or Laws 2018, ch. 102, §§ 3 and 13~~  
**Statutes/Other Implemented:**- 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ~~ORS 468A.335, ORS 468A.337, ORS 468A.343, ORS 468A.345 & Or Laws 2018, ch. 102, §§ 2, 3, 6, and 13~~

**History:**  
 DEQ 197-2018, adopt filed 11/16/2018, effective 11/16/2018

**340-245-0020**  
**Definitions**

The definitions in OAR 340-200-0020, 340-204-0010, ~~340-246-0030, 340-247-0020~~ and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

**Commented [GJ4]:** Required for consistency of definitions across toxic air contaminants divisions.

(1) “ABEL” means a computer model developed by EPA that evaluates a corporation's or partnership's ability to afford compliance costs, cleanup costs or civil penalties. ABEL is available upon request from DEQ.

(2) “Actual toxic air contaminant emission rate” means:

- (a) For an existing source, the toxic air contaminant emissions rate from the source’s actual production; or
- (b) For a new or reconstructed source, the toxic air contaminant emissions rate from the reasonably anticipated actual production by the new or reconstructed source.

(3) “Acute” means evaluated over a 24-hour period or day.

(4) “Acute exposure location” means an exposure location outside the boundary of a source being modeled for ~~the maximum~~ daily average concentrations of a toxic air contaminant, and that is:

**Commented [GJ5]:** Revised for consistency with modeling protocol language.

(a) A chronic exposure location; or

(b) A location where people may spend several hours of one day.

(5) "AERMOD" is the EPA approved steady-state air dispersion model, specified in 40 CFR part 51, Appendix W, "Guidelines on Air Quality Models (Revised)," that is the primary model used for the analysis of ambient concentrations for regulatory compliance. AERMOD uses a fully developed set of meteorological and terrain data. AERMOD stands for American Meteorological Society/Environmental Protection Agency Regulatory Model. AERMOD is available upon request from DEQ.

(6) "AERSCREEN" is the EPA approved screening dispersion model, specified in 40 CFR part 51, Appendix W, "Guidelines on Air Quality Models (Revised)," based on AERMOD. The model uses conservative screening meteorology to produce estimates of "worst-case" concentration estimates that are equal to or greater than the estimates produced by AERMOD. AERSCREEN stands for American Meteorological Society/Environmental Protection Agency Regulatory Screening Model. AERSCREEN is available upon request from DEQ.

(7) "Aggregate TEU Level" means the risk action levels, as identified under that name in OAR 340-245-8010 Table 1, that aggregated TEUs may not exceed, based on a calculation of the cumulative risk of all aggregated TEUs.

(8) "Aggregated TEUs" means all of a source's TEUs that are identified by an owner or operator with total cumulative risk less than the Aggregate TEU Level. A TEU that is identified as one of the aggregated TEUs is referred to in the singular as an aggregated TEU.

(9) "Area of impact" means the geographic area where risk is determined to be above the applicable Risk Action Level, and is determined by AERMOD or other comparable model approved by DEQ.

(10) "Chronic" means evaluated over a one-year period or longer.

(11) "Chronic exposure location" means an exposure location outside the boundary of a source being modeled for annual average concentrations of a toxic air contaminant, and can be either:

(a) A residential exposure location; or

(b) A ~~non-residential~~nonresidential exposure location.

(12) "Community Engagement Level" means the risk action levels, as identified under that name in OAR 340-245-8010 Table 1, at which DEQ will conduct community engagement.

(13) "Construction permit" means a Construction Air Contaminant Discharge Permit issued under OAR chapter 340, division 216, or a Standard Air Contaminant Discharge Permit used for approval of Type 3 or 4 changes under OAR chapter 340, division 210.

(14) "De minimis source" means a source whose excess cancer risk, chronic noncancer risk and acute noncancer risk estimates are each less than or equal to the Source Permit Level in OAR 340-245-8010 Table 1 when calculated based on the source's capacity, as determined under OAR 340-245-0050(7).

(15) "DEQ notice date" means the date that DEQ sends a notice to an owner or operator that a risk assessment is required.

(16) “Environmental Justice” means equal protection from environmental and health hazards, and meaningful public participation in decisions that affect the environment in which people live, work, learn, practice spirituality, and play. Environmental Justice communities include minority and low-income communities, tribal communities, and other communities traditionally underrepresented in the public process.

(17) “Excess cancer risk” means the probability of developing cancer resulting from exposure to toxic air contaminant emissions from a TEU or an entire source under an applicable exposure scenario, over and above the background rate of cancer. Excess cancer risk is expressed in terms of “X” in a million, and means that approximately “X” number of additional cases of cancer would be expected in a population of one million people subject to the applicable exposure scenario.

(18) “Exempt source” means a source at which all TEUs are exempt TEUs or a source that has no TEUs that emit toxic air contaminants, as determined under OAR 340-245-0050(6).

(19) “Exempt TEU” means a TEU that DEQ has determined is exempt under OAR 340-245-0060(3). An exempt TEU is not required to comply with any other requirements of this division, other than those applicable to qualify as an exempt TEU and OAR 340-245-0060(4)(c)(A).

(20) “Existing source” means a source that:

(a) Commenced construction before November 16, 2018; or

(b) Submitted all necessary applications to DEQ under OAR 340 divisions 210 or 216 before November 16, 2018, and all such applications were deemed complete by DEQ.

(21) “Existing TEU” means a TEU that is not a new or modified TEU.

(22) “Exposure location” means a location where people, including sensitive populations, actually live or normally congregate and will be exposed to a toxic air contaminant present in the air, and thus be the location of an air quality modeling receptor at which toxic air contaminant concentrations and risk are evaluated. Exposure locations are associated with exposure scenarios and identified based on allowed land use zoning, except as allowed under OAR 340-245-0210(1)(a)(F) or when DEQ has sufficient information to determine that an area is being used in a manner contrary to its land use zoning.

(23) “Exposure scenario” means a set of assumptions about how a population is exposed to toxic air contaminants. Included in the assumptions are the type of people exposed (e.g., children or adults), and the frequency and duration of exposure associated with the scenario (e.g., residential or occupational use). Exposure scenarios are associated with exposure locations- [\(e.g., nonresidential child\)](#).

(24) “Fixed capital cost” means the capital needed to purchase and construct all the depreciable components of a source.

(25) “Hazard Index number” or “Hazard Index,” as defined in Oregon Laws 2018, chapter 102, section 2, means a number equal to the sum of the hazard quotients attributable to toxic air contaminants that have noncancer effects on the same target organs or organ systems.

(26) “Hazard quotient,” as defined in Oregon Laws 2018, chapter 102, section 2, means a calculated numerical value that is used to evaluate noncancer health risk from exposure to a single toxic air contaminant. The calculated numerical value is the ratio of the air concentration of a toxic air contaminant

to the noncancer Risk-Based Concentration at which no serious adverse human health effects are expected to occur.

(27) “Immediate Curtailment Level” means the risk action levels, as identified under that name in OAR 340-245-8010 Table 1, at which [DEQ will require immediate risk reduction as provided in OAR 340-245-0130\(7\)](#), ~~an existing source will not be permitted to postpone risk reduction under OAR 340-245-0160.~~

**Commented [GJ6]:** Clarification added to point to new rule section in Risk Reduction rule.

(28) “INDIPAY” means a computer model developed by EPA that evaluates an individual's ability to afford compliance costs, cleanup costs or civil penalties. INDIPAY is available upon request from DEQ.

(29) “Inhalation Unit Risk” means the upper-bound lifetime excess cancer risk estimated to result from continuous exposure to a toxic air contaminant at a concentration of 1 µg/m<sup>3</sup> in air. The interpretation of inhalation unit risk would be as follows: if unit risk = 2 × 10<sup>-6</sup> per µg/m<sup>3</sup>, then two excess cancer cases (upper bound estimate) are expected to develop per one million people if exposed daily for 70 years to one microgram of the toxic air contaminant per cubic meter of air.

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

(31) “MUNIPAY” means a computer model developed by EPA that evaluates a municipality's or regional utility's ability to afford compliance costs, cleanup costs or civil penalties. MUNIPAY is available upon request from DEQ.

(32) “New or modified TEU” means ~~a TEU at an existing source where one of the following criteria is met:~~

~~(a) A TEU at an existing source where one of the following criteria is met:~~

~~(A)~~ Approval to construct or operate under OAR 340-210-0205 through 340-210-0250 was not required for the TEU, and construction commenced on or after November 16, 2018;

~~(B)~~ Approval to construct or operate under OAR 340-210-0205 through 340-210-0250 is or was required for the TEU, and the owner or operator submitted the application on or after November 16, 2018; or

~~(C)~~ Approval to construct or operate under OAR 340-210-0205 through 340-210-0250 was required for the TEU, but the owner or operator did not obtain the approval as required, and construction commenced on or after the following, as applicable:

~~(A.i)~~ For Type 1 changes under OAR 340-210-0225, 10 days before November 16, 2018;

~~(B.ii)~~ For Type 2 changes under OAR 340-210-0225, 60 days before November 16, 2018;

~~(C.iii)~~ For Type 3 changes under OAR 340-210-0225, 120 days before November 16, 2018; and

~~(D.iv)~~ For Type 4 changes under OAR 340-210-0225, 240 days before November 16, 2018;

~~(E.b)~~ With respect to a modification to a TEU, approval to construct or operate refers to approval to construct or operate the modification.

(33) “New source” means a source that:

(a) Is not an existing source; or

(b) ~~Was an existing source, but that has moved to a new location that is not contiguous or adjacent to its original facility location on or after <enter effective date of rules>, excluding existing portable sources.~~

**Commented [GJ7]:** Change related to clarification of ‘New source’ definition upon relocation. Added language to exclude portable sources from relocation requirement.

(34) “Noncancer risk” means the chance of noncancer harmful effects to human health resulting from exposure to toxic air contaminant emissions from a TEU or an entire source under an applicable exposure scenario. There are two types of noncancer risk, chronic and acute. Noncancer risk is expressed numerically using the Hazard Index. Below a Hazard Index of 1, adverse noncancer health effects are unlikely, and above a Hazard Index of 1, adverse noncancer health effects become more likely.

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

(36) “Nonresidential exposure location” means an exposure location outside the boundary of a source where people may reasonably be present for a few hours several days per week, possibly over a period of several years, and that is zoned for uses that do not allow residential use. A nonresidential exposure location includes ~~non-residential~~ nonresidential worker exposure locations and ~~non-residential~~ nonresidential child exposure locations.

(37) “Notification area” means the area of impact or the area within a distance of 1.5 kilometers of a source, whichever is greater.

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

(39) “Owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.

(40) “Permit Denial Level” means the risk action levels, as identified under that name in OAR 340-245-8010 Table 1, at which DEQ will not approve an operating permit for a new source, as provided in OAR 340-245-0100(5).

(41) “Pollution Prevention” means any practice that reduces, eliminates, or prevents pollution at its source, as described in OAR 340-245-0140.

(42) “Reconstructed,” as defined in Oregon Laws 2018, chapter 102, section 2, means an individual project is constructed at an air contamination source that, once constructed, increases the hourly capacity of any changed equipment to emit, and where the fixed capital cost of new components exceeds 50 percent of the fixed capital cost that would have been required to construct a comparable new source.

(43) “Residential exposure location” means an exposure location outside the boundary of a source where people may reasonably be present for most hours of each day over a period of many years, including individual houses and areas that are zoned to allow residential use either exclusively or in conjunction with other uses.

(44) “Risk” means the chance of harmful effects to human health resulting from exposure to a toxic air contaminant emitted from a TEU or an entire source under an applicable exposure scenario. For the

purpose of these rules, risk includes three types of risk: excess cancer risk, chronic noncancer risk, and acute noncancer risk.

(45) “Risk Action Level” as identified under OAR 340-245-8010 Table 1, means the levels of risk posed by a source or a TEU at which particular requirements of these rules will apply, or the owner or operator will be required to take specific action, depending on the risk posed to the area of impact as described in these rules.

(46) “Risk assessment” means a procedure that identifies toxic air contaminant emissions from a source or a TEU and calculates the risk from those emissions. This term specifically refers to the procedures under OAR 340-245-0050(8) through (11) and may include the results of air monitoring as allowed under OAR 340-245-0050(1)(c)(B). The procedures are designated Level 1 through Level 4, respectively, with complexity of a risk assessment increasing as the level numeration increases, (i.e., a Level 1 Risk Assessment is the simplest and a Level 4 Risk Assessment is the most complex).

(47) “Risk Determination Ratio” means the calculated value used to determine compliance with noncancer Risk Action Levels for existing sources as determined under OAR 340-245-0200.

(48) “Risk limit” means a condition or requirement in a permit or permit addendum that serves to limit the risk from a source or part of a source. Such conditions or requirements may include, but are not restricted to, limits on risk from the source or part of a source, limits on emissions of one or more toxic air contaminants, limits on emissions from one or more TEUs, or limits on source operation. ~~A Source Risk Limit established under OAR 340-245-0110 is a risk limit.~~

(49) “Risk-Based Concentration” or “RBC” means the concentration of a toxic air contaminant listed in OAR 340-245-8010 Table 4-2 that, for the designated exposure scenario, results in an excess cancer risk of one in one million, or a noncancer hazard quotient of one for either chronic exposure or acute daily exposure.

(50) “Risk Reduction Level” means the risk action levels, as identified under that name in OAR 340-245-8010 Table 1, at which the owner or operator of an existing source will be required to have an approved Risk Reduction Plan under OAR 340-245-0130.

(51) “Sensitive Population” means people with biological traits that may magnify the harmful effects of toxic air contaminant exposures that include individuals undergoing rapid rates of physiological change, such as children, pregnant women and their fetuses, and individuals with impaired physiological conditions, such as elderly people with existing diseases such as heart disease or asthma. Other sensitive populations include those with lower levels of protective biological mechanisms due to genetic factors and those with increased exposure rates.

(52) “Significant TEU” means a TEU that is not an exempt TEU and is not an aggregated TEU.

(53) “Source Permit Level” means the risk action levels, as identified under that name in OAR 340-245-8010 Table 1, ~~below which a source will be considered a de minimis source.~~

(54) ~~“Source risk”~~ means the cumulative risk from all toxic air contaminants emitted by all significant and aggregated TEUs at a source. ~~TEUs at a source except that the source risk calculation for a de minimis source will include consideration of all of the source’s TEUs, including both significant TEUs and aggregated TEUs.~~

(55) “TBACT Level” means the risk action levels, as identified under that name in OAR 340-245-8010 Table 1, below which an existing source will be considered to be in compliance with these rules without

**Commented [GJ8]:** Change required for clarification as not all sources below this level meet the criteria of a de minimis source.

**Commented [GJ9]:** Change required to include risk from Aggregated TEUs in final risk calculations.

having to further reduce its risk, and above which will require the owner or operator of the existing source either to demonstrate that its significant TEUs meet TBACT or to further reduce risk from the source, under OAR 340-245-0050(1)(c).

(56) “TLAER Level” means the risk action levels, as identified under that name in OAR 340-245-8010 Table 1, below which a new or reconstructed source will be considered to be in compliance with these rules, and above which will require the owner or operator of the new or reconstructed source to demonstrate that its significant TEUs meet TLAER, under OAR 340-245-0050(2)(b).

~~(57) “Toxic air contaminant” means an air pollutant that has been determined by the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health and is listed in OAR 340-245-8020 Table 2.~~

Commented [GJ10]: Definition is moving to division 247.

(58) “Toxic Air Contaminant Permit Addendum” means written authorization that incorporates the requirements under this division into a permit by amending an Air Contaminant Discharge Permit or a Title V Operating Permit, or in the case of a source assigned to a General Air Contaminant Discharge Permit, means written authorization imposing requirements under this division as additional source-specific permit conditions.

~~(59) “Toxicity Reference Value” or “TRV” means the following:~~

Commented [GJ11]: Definition is moving to division 247.

~~(a) For carcinogens, the air concentration corresponding to a one in one million excess cancer risk, calculated by dividing one in one million (0.000001) by the inhalation unit risk specific to that toxic air contaminant as established by the authoritative body that establishes the value, and as approved by the EQC; and~~

~~(b) For noncarcinogens, the air concentration above which relevant effects might occur to humans following environmental exposure, and below which is reasonably expected that effects will not occur.~~

(60) “Toxics Best Available Control Technology” or “TBACT” means a toxic air contaminant emission limitation or emission control measure or measures based on the maximum degree of reduction of toxic air contaminants that is feasible, determined using the procedures in OAR 340-245-0220.

(61) “Toxics emissions unit” or “TEU” means an emissions unit, or one or more individual emissions producing activities, that emit or have the potential to emit any toxic air contaminant, as designated under OAR 340-245-0060.

(62) “Toxics Lowest Achievable Emission Rate” or “TLAER” means that rate of emissions which reflects the most stringent emission limitation which is achieved in practice by a source in the same class or category of sources as the proposed source, determined using the procedures in OAR 340-245-0220.

**Statutory/Other Authority:**- ORS 468.020, ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.135, ORS 468A.337, ORS 468A.345 & Or Laws 2018, ch. 102, § ~~3, 7 and 13~~

**Statutes/Other Implemented:**- ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ORS 468A.335, ORS 468A.337, ORS 468A.343, ORS 468A.345 & Or Laws 2018, ch. 102, § ~~2, 3, 6, 7 and 13~~

**History:**

DEQ 11-2020, amend filed 04/29/2020, effective 04/29/2020

DEQ 8-2020, amend filed 04/24/2020, effective 04/24/2020

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

**340-245-0022**

**Abbreviations and Acronyms**

As used in this division:

- (1) "HI" means Hazard Index.
- (2) "IUR" means Inhalation Unit Risk.
- (3) "m<sup>3</sup>" means cubic meter.
- (4) "NESHAP" means National Emission Standards for Hazardous Air Pollutants, established by the Environmental Protection Agency under section 112 of the Clean Air Act, 42 U.S.C. §7412.
- (5) "NSPS" means New Source Performance Standards, established by the Environmental Protection Agency under section 111(b) of the Clean Air Act, 42 U.S.C. §7411(b).
- (6) "OHA" means Oregon Health Authority.
- (7) "PTE" means Potential to Emit.
- (8) "RBC" means Risk-Based Concentration.
- (9) "TBACT" means Toxics Best Available Control Technology.
- (10) "TEU" means Toxics Emissions Unit.
- (11) "TLAER" means Toxics Lowest Achievable Emission Rate.
- (12) "TRV" means Toxicity Reference Value.
- (13) "µg" means microgram.
- (14) "µg/m<sup>3</sup>" means micrograms per cubic meter.

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, [468A.135](#), [ORS 468A.337](#), [ORS 468A.345](#) & [Or Laws 2018, ch. 102, §§ 3 and 13](#)

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, [ORS 468A.335](#), [ORS 468A.337](#), [ORS 468A.343](#), [ORS 468A.345](#) & [Or Laws 2018, ch. 102, §§ 2, 3, 6, and 13](#)

**History:**

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

**[340-245-0030](#)**

**Submittal and Payment Deadlines**

(1) When required to demonstrate compliance with OAR 340-245-0040, 340-245-0050, [340-245-0060](#), or ~~340-245-0060~~, [0100](#) the owner or operator of a source must submit to DEQ all information and specific activity fees under OAR 340-216-8030 Table 3 required by, and by the deadlines specified in, subsections (a) through (j), as applicable, except as allowed under section (~~23~~). The owner or operator of a new or reconstructed source must also submit the following information but the time deadlines in subsections (a) through (j) do not apply.

(a)(A) An emissions inventory under OAR 340-245-0040 that will be used in the risk assessment must be submitted to DEQ no later than 90 days after the DEQ notice date; and

(B) For an existing source, if the owner or operator is submitting DEQ-approved source test data to supplement the emissions inventory, the updated emissions inventory must be submitted to DEQ no later

than 150 days after the DEQ notice date. The owner or operator must also submit a modeling protocol and Level 3 or Level 4 Risk Assessment work plan prior to or concurrent with the submission of source test data, if applicable;

(b) The modeling protocol under OAR 340-245-0210 must be submitted to DEQ no later than 30 days after receiving DEQ approval of the emissions inventory under subsection (a);

(c) The Level 3 or Level 4 Risk Assessment work plan under OAR 340-245-0210 must be submitted to DEQ no later than 60 days after receiving DEQ approval of the updated emissions inventory under subsection (a);

(d) Risk Assessments required under OAR 340-245-0050(8) through (11) must be submitted to DEQ in accordance with the following deadlines:

(i) A Level 1 or Level 2 Risk Assessment under OAR 340-245-0050(8) or (9) must be submitted to DEQ no later than 60 days after DEQ approval of the modeling protocol required under subsection (b);

(ii) A Level 3 Risk Assessment under OAR 340-245-0050(10) must be submitted to DEQ no later than 120 days after DEQ approval of the Level 3 Risk Assessment work plan required under subsection (c);

(iii) A Level 4 Risk Assessment under OAR 340-245-0050(11) must be submitted to DEQ no later than 150 days after DEQ approval of the Level 4 Risk Assessment work plan required under subsection (c);

(iv) In the case where DEQ has determined, upon review of the approved emissions inventory, modeling protocol, and Risk Assessment work plan (if applicable) required under OAR 340-245-0050(1), that risk from an existing source may exceed the Immediate Curtailment Level, DEQ may reduce the Risk Assessment submittal deadline to a period of no less than 30 days for chronic risk or 15 days for acute risk, unless a shorter deadline is agreed to in writing between DEQ and the source;

**Commented [GJ12]:** Change to allow DEQ to require expedited risk assessment submittal timeline for facilities with potential risks anticipated above the Immediate Curtailment Level in order to more quickly address any subsequent reductions required.

(g) If risk from the source is greater than the Immediate Curtailment Level, a report describing the immediate action taken by the owner or operator to reduce risk to below the Immediate Curtailment Level as required under OAR 340-245-0130(7) must be submitted to DEQ no later than seven days after DEQ approval of a Level 3 Risk Assessment or a Level 4 Risk Assessment under subsection (e)(ii) or (iii);

(h) A Toxic Air Contaminant Monitoring Plan under OAR 340-245-0230 and an application for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 must be submitted to DEQ no later than 30 days after DEQ approval of a Level 3 Risk Assessment or a Level 4 Risk Assessment under subsection (e)(ii) or (iii);

(i) A Risk Reduction Plan under OAR 340-245-0130 and an application for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 must be submitted to DEQ no later than ~~20~~ 30 days after DEQ approval of a Level 3 or a Level 4 Risk Assessment under subsection (e)(ii) or (iii); and

(j) For owners or operators that are not required to submit a Risk Reduction Plan and who do not choose to perform air monitoring, an application for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 must be submitted to DEQ within 30 days after DEQ approval of any level of risk assessment, whichever is applicable.

(2) Upon receipt of a submittal described in section (1), DEQ will review the submittal and if DEQ determines that any additional information, corrections, or updates are required in order to approve the submittal, then DEQ will provide the owner or operator with a written request to provide such information by a date certain.

(3) An owner or operator may request an extension of time from a deadline established in section (1) or section (2) by providing DEQ with a written request no fewer than 15 days prior to the submittal deadline. DEQ may grant an extension based on the following criteria:

(a) The owner or operator has demonstrated progress in completing the submittal; and

(b) A delay is necessary, for good cause shown by the owner or operator, related to obtaining more accurate or new data, performing additional analyses, or addressing changes in operations or other key parameters, any of which are likely to have a substantive impact on the outcomes of the submittal.

(4) If DEQ determines it is not able to approve the owner or operator's submittal, or if the owner or operator does not timely provide additional information or corrections requested by DEQ, then in addition to any other remedies available, DEQ may:

(a) With sufficient factual basis, modify the information provided by the owner or operator, approve it as modified, and the owner or operator must pay the document modification fee in OAR 340-216-8030 Table 3; or

(b) Inform the owner or operator of the deficiency, and provide the owner or operator with a revised deadline to submit the needed information.

(5) Recordkeeping. The owner or operator of a source that provides DEQ with any information related to a risk assessment completed under this rule must retain all of its records related to the risk assessment for five years from the date the information is submitted to DEQ.

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, ~~468A.135, ORS 468A.337, ORS 468A.345 & Or Laws 2018, ch. 102, §§ 3 and 13~~

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ~~ORS 468A.335, ORS 468A.337, ORS 468A.343, ORS 468A.345 & Or Laws 2018, ch. 102, §§ 2, 3, 6, and 13~~

**History:**

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

**340-245-0040**

**Emissions Inventory**

(1) Individual emissions ~~inventory~~ inventories for risk assessment ~~of sources. New sources must submit an emissions inventory as part of the permit application. For the purpose of assessing risk,~~ DEQ may also require the owner or operator of any existing permitted or unpermitted source to submit an emissions inventory ~~for the purpose of assessing risk. These emissions inventories must include~~ all toxic air contaminants emitted by the source listed in OAR ~~340-245-8020~~ 247-8010 Table ~~21~~. The owner or operator must assess risk from the toxic air contaminants in OAR ~~340-245-8040 Table 4 and must address uncertainty in a Level 3 or Level 4 Risk Assessment for the toxic air contaminants in OAR 340-245-8020 Table 2 that do not have RBCs. The~~ 247-8010 Table 2. ~~For existing sources, the~~ owner or operator must submit the emissions inventory electronically to DEQ no later than 90 days after the DEQ notice date unless DEQ allows additional time under OAR 340-245-0030.

**Commented [GJ13]:** Changes related to OAR 340-245-8020 Table 2 moving to division 247.

(2) Periodic state-wide emissions inventory.

~~(a) Once every three years,~~ (a) DEQ may require the owners and operators of all permitted and unpermitted sources to submit an updated toxic air contaminant emissions inventory of all toxic air contaminants emitted by the source listed in OAR 340-245-8020~~247-8010~~ Table 21. The reporting year will generally correspond with EPA's National ~~Emission~~Emissions Inventory reporting year (2020, 2023, 2026, etc.);

**Commented [GJ14]:** Allows DEQ flexibility for scheduling the periodic inventory.

(b) The owner or operator must submit its updated emissions inventory electronically to DEQ no later than 60 days after the date that DEQ sends a written request by electronic mail or regular U.S. mail, to the owner or operator, unless DEQ allows additional time under OAR 340-245-0030; and

~~(c)~~ (3) Emissions inventory revision. DEQ may also require the owner or operator of a source that has previously submitted a toxic air contaminant emissions inventory under section (1) or (2) to submit an updated emissions inventory if DEQ discovers ~~or learns~~ additional information that indicates that the source's emissions have changed since it completed its most recent emissions inventory.

**Commented [GJ15]:** Clarification that DEQ can request a revised EI for either the purposes of a Risk Assessment or the Periodic Statewide Reporting.

~~(3)~~ Emissions inventory requirements.

(a) When required to submit an emissions inventory, the owner or operator must submit:

**Commented [GJ16]:** Changes in sub-section (4)(a) are housekeeping changes, primarily related to formatting for clarity.

(A) A list of TEUs that emit toxic air contaminants. The owner or operator must include exempt TEUs but does not have to calculate toxic air contaminant emissions from the exempt TEUs. The list of TEUs that emit toxic air contaminants should not be limited to what is listed in a source's operating permit but should include all operations at the source that emit toxic air contaminants;

(B) A list of ~~production, fuel and material usage rates that are~~all activities used to calculate toxic air contaminant emissions, such as production rates, fuel consumption, and material usage, for each TEU for the following:

(i) For ~~any~~an emissions inventory, ~~the actual required under section (1),~~ production activities or usage, as applicable, based on the following:

(I) For existing sources, actual annual and maximum daily production activities or usage, as applicable, in the calendar year preceding the year DEQ's written request is made, ~~or for new or reconstructed sources, the reasonably anticipated actual production or usage;~~

~~(ii) For an emissions inventory required under section (1),~~ (II) For all sources, potential annual and maximum daily production or usage based on the following:

~~(I) Annual production and activities and usage, as applicable,~~ that are used to calculate the Source Risk Limit if the owner or operator chooses to be permitted based on a requested PTE or risk limit established under OAR 340-245-0110(2); or

~~(II) Potential~~ (III) For all sources, potential annual and maximum daily production activities or usage, as applicable, based on capacity that is used to prove the source is de minimis if the owner or operator chooses to be permitted as a de minimis source;

**Commented [GJ17]:** The change was made to ensure consistency with the rule language for establishing Source Risk Limits under OAR 340-245-0110.

~~(iii)~~ (i) For an emissions inventory required under section (1), ~~potential~~ (2), the actual production activities or usage, as applicable, for the projected maximum day. The owner or operator must use knowledge of process to calculate in the maximum daily calendar year preceding the year DEQ's written request is made,

or for new or reconstructed sources, the reasonably anticipated actual production and process rates; and usage, as applicable.

(C) Material balance information using Safety Data Sheets (formerly Material Safety Data Sheets) and Technical Data Sheets, as applicable, for ~~VOC-containing~~ materials used in any process; and

**Commented [GJ18]:** Correction to allow for all materials containing TACs to provide reference materials.

(D) Operating schedule (hours/day, days/year, seasonal variability) for the source, including schedules for each TEU, if different, for the calendar year preceding the year DEQ's written request is made and the year based on a requested PTE or risk limit;

(b) Owners or operators of sources with Title V, Standard and Simple Air Contaminant Discharge Permits, and unpermitted sources when DEQ so requires, must also submit:

(A) A list of all toxic air contaminants emitted by the source; ~~and~~

(B) ~~The amount of each toxic air contaminant listed in OAR 340-247-8010 Table 1 emitted from each TEU, reported as both maximum mass emitted per 24-hour period for each toxic air contaminant that has an acute RBC, day and as mass emitted per year for each toxic air contaminant that has an annual RBC or has no RBC,~~ with the emission factors used or material balance information, as appropriate, for the following:

**Commented [GJ19]:** Changes in paragraph (4)(b)(B) are housekeeping changes, primarily related to formatting for clarity.

~~(i) For any emissions inventory, actual emissions for the calendar year preceding the year DEQ's written request is made, or for new or reconstructed sources, emissions based on the reasonably anticipated actual production or usage; and~~

~~(#i)~~ For an emissions inventory required under section (1), emissions based on the following, and including startup and shutdown emissions for sources required to do so under OAR 340-214-0310:

(I) ~~Requested PTE or risk limit~~ For an existing source, actual emissions used to calculate the Source Risk Limit if the owner or operator chooses to be permitted based on actual emissions;

(II) For all sources, requested PTE used to calculate the Source Risk Limit if the owner or operator chooses to be permitted based on ~~a requested PTE or risk limit established under OAR 340-245-0110(2)~~; or

**Commented [GJ20]:** The change was made to ensure consistency with the rule language for establishing Source Risk Limits under OAR 340-245-0110.

~~(H) Capacity~~ (III) For all sources, capacity that is used to prove the source is de minimis if the owner or operator chooses to be permitted as a de minimis source;

~~(#ii)~~ For an emissions inventory required under section (1), maximum daily production. The owner or operator must use knowledge of process to calculate the maximum daily emissions; and

~~(€iii)~~ For an emissions inventory required under section (2), the actual emissions for the calendar year preceding the year DEQ's written request is made, or for new or reconstructed sources, emissions based on the reasonably anticipated actual production or usage; and

(C) All supplementary materials required to verify the calculated emissions as submitted in an emissions inventory under this rule, including but not limited to:

**Commented [GJ21]:** Changes in paragraph (4)(b)(C) here clarify supplemental materials required to be submitted along with an EI in order to verify and approve the emissions data in the submitted EI.

(i) Detailed process flow diagrams for all emissions producing activities, including expected points of all fugitive and non-fugitive emissions and air pollution control devices;

(ii) The name of each resource used to obtain toxic air contaminant emission factors ~~or methodologies used to calculate emissions~~ (e.g., AP-42 ~~or~~ WebFIRE, California Air Toxic Emission Factors, or source test data ~~continuous~~);

(iii) Methodologies used to calculate emissions, including all formulas and assumptions along with the supporting technical documentation (e.g., environmental data sheets, safety data sheets, or engineering estimates);

(iv) Continuous emissions monitoring data ~~etc.~~ that meets data sufficiency requirements as required under the Continuous Monitoring Manual in OAR 340-200-0035;

~~(v) Technical documentation related to air pollution control device operation and efficiency (e.g., manufacturer or source test data); and~~

(vi) Source test data sufficient to verify emission factors (e.g., source test reports).

(5) Review of toxic air contaminant emissions inventory reports. DEQ shall use the procedures in OAR 340-245-0030 to review any emissions inventory in determining its completeness, consider extensions requests, and request additional information, if needed.

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.135, ORS 468A.337 & Or Laws 2018, ch. 102, § 3

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ORS 468A.335, ORS 468A.337 & Or Laws 2018, ch. 102, §§ 2 and 3

**History:**

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

**340-245-0050**

**Risk Assessment Procedures**

(1) Existing source.

(a) When notified in writing by DEQ, at DEQ's discretion, the owner or operator of an existing source with an operating permit must either demonstrate that it is an exempt source by following the procedure in section (6) or:

(A) Assess risk from the source using any of the Level 1 through Level 4 Risk Assessment procedures in sections (8) through (11);

(B) Assess risk from the source using the emissions inventory submitted under OAR 340-245-0040(1); and

(C) Follow the applicable calculation procedures under OAR 340-245-0200.

(b) ~~If the~~The owner or operator of an existing source proposes to modify the source in a way proposing an action listed in OAR 240-224-0010(1) or (2) that would require compliance under OAR chapter 340, division 224, "New Source Review," excluding actions described in "must submit an emissions inventory under OAR 340-~~224-0010(2)(b) and (d)(B)-245-0040(1) for the proposed modifications or operational changes. If upon review DEQ determines that require compliance only as Type B State New Source Review, then a risk assessment under this rule is required, then:~~

**Commented [GJ22]:** The changes in sub-section(b) update the rules to require all existing sources that have not completed the CAO risk assessment process, and that are proposing to make changes to their operations that require either Major, or Type A or B State, New Source Review to submit an emissions inventory.

These existing sources will now be required to submit a TAC emissions inventory to DEQ for review.

~~(A) The risk assessment emissions inventory must be approved by DEQ, and the owner or operator must perform apply for a risk assessment Toxic Air Contaminant Permit Addendum, if applicable, before the operational changes or modification can be New Source Review application is can be deemed approved complete under OAR 340-224-0030(2); and demonstrate compliance under this division and must include its compliance demonstration under this division with its application submitted under~~

~~(B) The emissions inventory- submittal deadline for existing sources in OAR chapter 340, division 224-245-0030(1)(a)(A) does not apply.~~

(c) The owner or operator must demonstrate compliance with paragraph (A), (B), (C) or (D), and also comply with paragraph (E), if applicable.

(A) The owner or operator must demonstrate that the source is a de minimis source by following the procedure in section (7), or demonstrate that the risk from the source is less than or equal to the TBACT Level. The owner or operator of a source whose risk is less than or equal to the TBACT Level must apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 with Source Risk Limits or an application that modifies the existing permit in a manner that ensures that the risk from the source will be less than or equal to the TBACT Level.

(B) Toxic air contaminant monitoring.

(i) Before the owner or operator of a source may begin air monitoring, the owner or operator must complete and submit to DEQ a Level 3 or Level 4 Risk Assessment and comply with the applicable requirements of OAR 340-245-0230.

(ii) An owner or operator may not delay submission of an application for an Air Contaminant Permit Addendum and subsequent implementation of the approved Risk Reduction Plan prepared under OAR 340-245-0130 if a Level 3 or 4 Risk Assessment shows that:

(I) Calculated cancer risk exceeds 200 in 1 million;

(II) Calculated noncancer risk exceeds a Hazard Index of 12 if all toxic air contaminants emitted have been assigned a noncancer TBACT Risk Action Level of a Hazard Index of 3;

(III) Calculated noncancer risk exceeds a Hazard Index of 20 if all toxic air contaminants emitted have been assigned a noncancer TBACT Risk Action Level of a Hazard Index of 5; or

(IV) Calculated noncancer Risk Determination Ratio exceeds 4 if air toxic contaminants emitted include a mixture of toxic air contaminants assigned noncancer TBACT Risk Action Levels of both a Hazard Index of 3 and a Hazard Index of 5.

(iii) If the Level 3 or Level 4 Risk Assessment calculates risk from the source that does not cause any exceedances of the criteria in subparagraph (ii), then DEQ shall issue a Toxics Air Contaminant Permit Addendum addressing ~~only~~ toxic air contaminant monitoring requirements, including a reporting and compliance schedule for implementing the Toxic Air Contaminant Monitoring Plan required under OAR 340-245-0230;

(iv) Upon completion and DEQ approval of toxic air contaminant monitoring in compliance with OAR 340-245-0230, the owner or operator must use the toxic air contaminant monitoring results, in association with other applicable, relevant data to determine compliance requirements under paragraph (c)(A), (C), or (D) and apply for a Toxic Air Contaminant Permit Addendum modification under OAR 340-245-0100;

**Commented [GJ23]:** This change clarifies for sources where DEQ has approved a Toxic Air Contaminant Air Monitoring Plan, that DEQ will issue a Toxic Air Contaminant Permit Addendum or Operating Permit in order to limit risk for the duration of the monitoring period.

(C) TBACT compliance. If the risk from the source is greater than the TBACT Level and less than or equal to the Risk Reduction Level, and all significant TEUs meet TBACT under OAR 340-245-0220, then the owner or operator must apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 that includes Source Risk Limits that ensure the risk from the source will be less than or equal to the Risk Reduction Level; or

(D) Risk Reduction Plan. The owner or operator may demonstrate compliance with this paragraph under either subparagraph (i), (ii), or (iii), whichever is applicable:

(i) If the risk from the source is greater than the TBACT Level and the owner or operator can make physical, operational or process changes to reduce the risk to less than or equal to the TBACT Level, then the owner or operator must apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 that includes a Risk Reduction Plan under OAR 340-245-0130 and Source Risk Limits that ensure that the risk from the source will be less than or equal to the TBACT Level;

(ii) If the risk from the source is greater than the TBACT Level and less than or equal to the Risk Reduction Level, but not all significant TEUs meet TBACT under OAR 340-245-0220, then the owner or operator must either reduce risk below the TBACT Level under subparagraph (i) or apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 that includes a Risk Reduction Plan under OAR 340-245-0130 to meet TBACT on all significant TEUs and Source Risk Limits that ensure that the risk from the source will be less than or equal to the Risk Reduction Level; or

(iii) If the risk from the source is greater than the Risk Reduction Level, ~~then~~ the owner or operator must meet the requirements in subparagraph (ii) and apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 that includes a Risk Reduction Plan under OAR 340-245-0130 with additional risk reduction measures and Source Risk Limits that ensure that the risk from the source will be less than or equal to the Risk Reduction Level.

(E) If the risk from the source is greater than the Immediate Curtailment Level, ~~then~~ the owner or operator must take immediate action to reduce risk to below the Immediate Curtailment Level. ~~under OAR 340-245-0130(7).~~

(2) New or reconstructed source.

(a)(A) The owner or operator of a proposed new or reconstructed source that is required to obtain a Simple or Standard Air Contaminant Discharge Permit, and that is not an exempt source, ~~as determined by the procedure in section (6).~~ must also perform a risk assessment, and if applicable, apply for a Toxic Air Contaminant Permit Addendum concurrently with an application for a permit under OAR chapter 340, division 216, before a permit is issued. If DEQ approves the applications, then DEQ will incorporate the toxic air contaminant permit conditions directly into the new Simple or Standard Air Contaminant Discharge Permit and will not issue a separate Toxic Air Contaminant Permit Addendum.

(B) DEQ may require the owner or operator of a proposed new or reconstructed source that is required to obtain a Basic or a General Air Contaminant Discharge Permit to perform a risk assessment and demonstrate compliance with this division, and if applicable, apply for a Toxic Air Contaminant Permit Addendum concurrently with an application for a permit under OAR chapter 340, division 216.

(i) If DEQ approves the applications for a source that will have a Basic Air Contaminant Discharge Permit, then DEQ will incorporate the toxic air contaminant permit conditions directly into the new operating permit.

**Commented [GJ24]:** This change clarifies that in order for an existing source to be able to request Source Risk Limits up to the Risk Reduction Risk Action Level, all significant TEUs must meet TBACT.

(ii) If DEQ approves the applications for a source that will be assigned to a General Air Contaminant Discharge Permit, then DEQ will issue a Toxic Air Contaminant Permit Addendum as a source-specific addendum to the new operating permit that will not be incorporated into the operating permit.

(C) Any owner or operator of a proposed new or reconstructed source that is required to perform a risk assessment must:

(i) Assess risk from the source using any of the Level 1 through Level 4 Risk Assessment procedures in sections (8) through (11);

(ii) Assess risk from the source using the emissions inventory submitted under OAR 340-245-0040(1); and

(iii) Follow the applicable calculation procedures under OAR 340-245-0200.

(b) The owner or operator of a new or reconstructed source must demonstrate compliance with either paragraph (A) or (B).

(A) The owner or operator must demonstrate that the source is a de minimis source by following the procedure in section (7), or demonstrate that the risk from the source is less than or equal to the TLAER Level. The owner or operator of a source whose risk is less than or equal to the TLAER Level must apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 or an operating permit with Source Risk Limits that ensure that the risk from the source will be less than or equal to the TLAER Level; or

(B) TLAER compliance. If the risk from the new or reconstructed source is greater than the TLAER Level and less than or equal to the Permit Denial Level, and all significant TEUs meet TLAER under OAR 340-245-0220, then the owner or operator must apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 or an operating permit that includes Source Risk Limits that ensure the risk from the source will be less than or equal to the Permit Denial Level.

(3) Other sources. When notified in writing by DEQ, the owner or operator of a source that is not subject to sections (1) or (2) must perform a risk assessment using any of the Level 1 through Level 4 Risk Assessment procedures in sections (8) through (11). DEQ may notify such a source after determining through an investigation or file review that the source may emit toxic air contaminants in quantities that may cause the source's risk to exceed the Source Permit Level.

(4) A risk assessment for a source must include all TEUs at the source, as of the date that the owner or operator submits an application under OAR 340-245-0100 for a Toxic Air Contaminant Permit Addendum, except for the following:

(a) Exempt TEUs; and

(b) Gas combustion TEUs, as provided under section (5); ~~and~~

~~(c) Aggregated TEUs, except when the owner or operator is requesting approval as a de minimis source under section (7).~~

(5) Gas combustion exemption. This exemption applies to TEUs that solely combust natural gas, propane, liquefied petroleum gas, and, when approved by DEQ in response to a written request by an owner or operator, pretreated landfill gas and pretreated digester gas or biogas. Risk from toxic air contaminants

**Commented [GJ25]:** Change required to include risk from aggregated TEUs in final risk calculations.

emitted from such combustion must be calculated and reported in the risk assessment, but the risk from such toxic air contaminants may be treated as follows:

(a) At each exposure location, risk must be reported as two values:

(A) The risk from toxic air contaminants emitted from such combustion of natural gas, propane, liquefied petroleum gas, pretreated landfill gas and pretreated digester gas or biogas ; and

(B) The risk from all other toxic air contaminant emissions;

(b) At each exposure location, the risk from toxic air contaminants emitted solely from the combustion of natural gas, propane, liquefied petroleum gas, pretreated landfill gas and pretreated digester gas or biogas may be excluded from the total risk for the purpose of determining compliance with Risk Action Levels and may be omitted from any requirements determined under a Risk Reduction Plan under OAR 340-245-0130 if good air pollution control practices are followed [to ensure proper combustion](#); and

(c) Notwithstanding subsections (a) and (b), an owner or operator must include in its risk assessment any toxic air contaminants that are emitted from materials that are contacted by the flame or combustion gases from the combustion of natural gas, propane, liquefied petroleum gas, pretreated landfill gas or pretreated digester gas or biogas. Materials that may emit toxic air contaminants include but are not limited to VOCs combusted in thermal oxidizers and materials dried in direct-contact dryers.

(6) Exempt Source Determination.

(a) To be approved as an exempt source, no later than 30 days after the date that DEQ sends a notice under subsection (1)(a) or with submittal of an application for a new or reconstructed source under subsection (2)(a), the owner or operator must submit information to DEQ that demonstrates that all TEUs at the source are exempt TEUs [as provided in OAR 340-245-0060\(3\)](#); and

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

(A) Review the submissions and, if approved, write a memo to the DEQ file for the source summarizing the assessment that will be:

(i) Incorporated into the review report of a permitted source upon permit issuance or renewal; or

(ii) Maintained in the file and tracked in a DEQ database.

(B) Follow the Category I public notice procedure in OAR chapter 340, division 209, prior to approving or denying the request to be considered an exempt source; and

(C) Keep records of exempt sources in a database for the emissions inventory and future communication if RBCs change or other information about risk is received such that toxic air contaminant emissions must be reevaluated.

(7) De minimis Source Determination.

(a) To be approved as a de minimis source, the owner or operator must assess risk at the capacity of ~~each TEU, including all significant and~~ aggregated TEUs, using any of the Level 1 through Level 4 Risk Assessment procedures in sections (8) through (11). The owner or operator must submit to DEQ the following [as applicable](#):

Commented [GJ26]: Minor clarifications in this section.

(A) Information that demonstrates ~~that the source does not exceed the Source Permit Level if the owner or operator is not required to operate and maintain~~ when operating without control devices ~~to remain a de minimis source;~~

(B) Information that demonstrates ~~that the existing~~ source does not exceed the Source Permit Level if the owner or operator is required to operate and maintain control devices to remain a de minimis source; and the existing or proposed operating permit includes necessary conditions to operate and maintain the control devices; or

(C) An application for a Toxic Air Contaminant Permit Addendum that demonstrates that the source does not exceed the Source Permit Level if the owner or operator is required to operate and maintain control devices to remain a de minimis source, and the ~~source is a new source existing or the existing~~ proposed operating permit does not include necessary conditions to operate and maintain the control devices.

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

(A) Review the submissions and, if approved, either:

(i) Write a memo to the DEQ file for the source summarizing the assessment that will be:

(I) Incorporated into the review report of a permitted source upon permit issuance or renewal; or

(II) Maintained in the file and tracked in a DEQ database for sources that meet the criteria in paragraph (a)(A) or (B); or

(ii) Issue a Toxic Air Contaminant Permit Addendum or operating permit, for sources that meet the criteria in paragraph (a)(C);

(B) Follow the Category I public notice procedure in OAR chapter 340, division 209, prior to approving or denying the request to be considered a de minimis source; and

(C) Keep records of de minimis sources in a database for the emissions inventory and future communication if RBCs change or other information about risk is received such that toxic air contaminant emissions must be reevaluated.

(8) Level 1 Risk Assessment. To complete a Level 1 Risk Assessment, the owner or operator must comply with OAR 340-245-0210(1) and then assess risk by using the Level 1 Risk Assessment ~~Tool~~ Dispersion Factor Tables -in OAR 340-245-801~~50~~ Table 5-Tables 3A through 3D to determine toxic air contaminant concentrations at approved exposure locations.

(a) The owner or operator must follow the directions for using the Level 1 Risk Assessment ~~Tool~~ Dispersion Factor Tables described in OAR 340-245-0200(2);

(b) For sources with multiple stacks, stacks must either be considered individually using OAR 340-245-801~~50~~ Tables 5A-3A and 5B-3B with risk calculated as the summation of individual stack risk, or the stacks combined into a single stack in a manner approved by DEQ and risk calculated for that single stack;

(c) A Level 1 Risk Assessment ~~will may not be approved if the~~ approved if DEQ determines that the actual source is located near elevated modeling parameters, such as terrain that DEQ determines could features, exposure location distances less than 50m, unusual stack or building configurations, or other factors that

**Commented [GJ27]:** These changes clarify when DEQ would not allow use of a Level 1 Risk Assessment if any modeling inputs or conditions exist that invalidate the assumptions used to generate the Level 1 Dispersion Table values.

[may](#) invalidate the assumptions used to develop the Level 1 Risk Assessment ~~Fee~~[Dispersion Factor Tables in OAR 340-245-8010 Table 3](#); and

(d) If DEQ concludes that the source complies with this division based on a Level 1 Risk Assessment, then DEQ will follow the Category II public notice procedure in OAR chapter 340, division 209 for issuance of the Toxic Air Contaminant Permit Addendum.

(9) Level 2 Risk Assessment. To complete a Level 2 Risk Assessment, the owner or operator must comply with OAR 340-245-0210(1) and then assess risk by submitting a modeling protocol, conducting modeling, and performing a risk assessment. The owner or operator must use AERSCREEN or comparable screening model approved by DEQ to determine air concentrations at approved exposure locations. If DEQ concludes that the source complies with this division based on a Level 2 Risk Assessment, then DEQ will follow the Category II public notice procedure in OAR chapter 340, division 209 for issuance of the Toxic Air Contaminant Permit Addendum.

(10) Level 3 Risk Assessment. To complete a Level 3 Risk Assessment, the owner or operator must comply with OAR 340-245-0210 and then assess risk by submitting a modeling protocol and a risk assessment work plan, conducting modeling, and performing a risk assessment. The owner or operator must use AERMOD or comparable model approved by DEQ to determine air concentrations at approved exposure locations. If DEQ concludes that the source complies with this division based on a Level 3 Risk Assessment, then DEQ will follow the Category III public notice procedure in OAR chapter 340, division 209 for issuance of the Toxic Air Contaminant Permit Addendum.

(11) Level 4 Risk Assessment. To complete a Level 4 Risk Assessment, the owner or operator must comply with OAR 340-245-0210 and then assess risk by submitting a modeling protocol and a risk assessment work plan, conducting modeling, and performing a risk assessment. The owner or operator must use AERMOD or comparable model approved by DEQ to determine air concentrations at approved exposure locations. The risk assessment must include toxicity and bioaccumulation assessments, and may include proposed modifications to default exposure assumptions as specified in OAR 340-245-0210. If DEQ concludes that the source complies with this division based on a Level 4 Risk Assessment, then DEQ will follow the Category III public notice procedure in OAR chapter 340, division 209 for issuance of the Toxic Air Contaminant Permit Addendum.

(12) DEQ may require the owner or operator of a source to conduct and submit an additional multipathway risk evaluation for any level of risk assessment if DEQ determines that airborne deposition of chemicals could be important for scenarios not included in the default multipathway adjustment factor assumptions used in the original risk assessment for the source.

**Statutory/Other Authority:** ORS 468.020, ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, [468A.135](#), [ORS 468A.337](#) & Or Laws 2018, ch. 102, §§ ~~3 and 7~~

**Statutes/Other Implemented:** ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, [ORS 468A.335](#), [ORS 468A.337](#) & Or Laws 2018, ch. 102, §§ ~~2, 3, and 7~~

**History:**

DEQ 8-2020, amend filed 04/24/2020, effective 04/24/2020

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

**[340-245-0060](#)**

**Toxic Emissions Units**

(1) TEU Designation. An owner or operator must designate TEUs in the same manner as the owner or operator designated emissions units listed in a source's operating or construction permit, if they are

designated, unless the owner or operator requests a different designation in writing and DEQ approves that request in writing. The request for a new or a different TEU designation must be compatible with the following:

- (a) TEUs may not be designated in such a way as to avoid the requirements of this division;
- (b) An individual emissions-producing activity that exhausts through multiple stacks or openings must be designated as an individual TEU;
- (c) Where multiple emissions-producing activities exhaust through a common opening, exhaust stack or emissions control device, ~~each~~ all of these emissions producing ~~activity~~ activities may be considered a single TEU or may be considered separate TEUs; ~~and~~
- (d) The list of TEUs should not be limited to what is listed in a source's operating or construction permit but should include all processes and activities that emit toxic air contaminants; ~~and~~

(e) DEQ may require the owner or operator to designate TEUs differently than as listed in the source's operating or construction permit, if DEQ determines such listing is appropriate to meet the purposes of this division.

**(2) Aggregated TEUs.**

- (a) An owner or operator must designate the same TEUs as aggregated TEUs for all of the different types of risk: excess cancer risk, chronic noncancer risk and acute noncancer risk; ~~;~~
- (b) ~~After an~~ An owner or operator ~~has designated the source's~~ may choose to assign risk from aggregated TEUs based on either:

(A) The applicable Aggregate TEU Level in a modeling protocol, OAR 340-245-8010 Table 1; or

(B) The modeled risk from the approved risk assessment work plan submitted in writing to DEQ, the

(c) An owner or operator must request approval to change ~~its~~ any aggregated TEU designation; ~~and after the source's aggregated TEUs have been designated in a risk assessment approved by DEQ.~~

(d) An owner or operator may request approval to construct a new aggregated TEU or modify an existing aggregated TEU, following the procedures in section (4) if the total risk from the aggregated TEUs, including the new or modified TEU, remains less than or equal to the applicable Aggregate TEU Level in OAR 340-245-8010 Table 1.

**(3) Exempt TEUs. A TEU is an exempt TEU if:**

~~(a) (A) The TEU is listed in it meets the definition of Categorically Insignificant Activity in OAR 340-200-0020, excluding criteria in subsection (a), of that definition, and except that a maintenance and repair shop that is defined as categorically insignificant under OAR 340-200-0020 will not be considered an exempt TEU if DEQ makes a finding that a particular maintenance and repair shop emits an amount of toxic air contaminants that may create a risk to human health; ) or (b);~~

(B) a The owner or operator of the TEU has demonstrated ~~to DEQ's satisfaction~~ that the TEU is not likely to emit toxic air contaminants ~~in nhan trace amounts~~ and DEQ approves such demonstration. The demonstration may include any information the owner or operator considers relevant, including but not limited to:

**Commented [GJ28]:** Changes provide DEQ with the ability to designate TEUs in a way that ensures all operations and activities that emit TACs can be regulated if applicable.

**Commented [GJ29]:** The changes in section (2) are related to requiring Aggregated TEU risk to be included in the final risk calculations.

These changes allow a source to choose either the Aggregated TEU level in OAR 340-245-8010 Table 1 or the modeled risk when calculating the source risk.

**Commented [GJ30]:** The changes in section (3) clarify the criteria for Exempt TEUs.

The list of Categorically Insignificant Activities from OAR 340-200-0020(23) previously referenced in this section as criteria for Exempt TEUs has been removed and specific activities have been included in subsection (b).

~~(A)~~ The chemical make-up of the materials handled or processed in the TEU, as provided by Environmental, Safety, or Product Data Sheets, or equivalent documents; and

~~(B) Whether or not the type of handling or processing of materials in the TEU, including whether or not the handling or processing is likely to alter the chemical make-up of the materials; and the chemical make-up or likely chemical make-up of the materials emitted by the TEU; and.~~

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

(b) The TEU is one of the following regulated pollutant emitting activities, principally supporting the source or the major industrial group:

(A) Evaporative and tailpipe emissions from on-site motor vehicle operation, excluding diesel powered, compression ignition vehicles operating exclusively at a source, and under control of the owner or operator of that source;

(B) Distillate oil, kerosene, gasoline, natural gas or propane burning equipment, provided the aggregate expected actual emissions of the equipment identified does not exceed the de minimis level for any regulated pollutant, based on the expected maximum annual operation of the equipment. If a source's expected emissions from all such equipment exceed the de minimis levels, then the source may identify a subgroup of such equipment as an exempt TEU with the remainder not designated as an exempt TEU. The following equipment may never be included as part of the exempt TEU:

(i) Any individual distillate oil, kerosene or gasoline burning equipment with a rating greater than 0.4 million Btu/hour; and

(ii) Any individual natural gas or propane burning equipment with a rating greater than 2.0 million Btu/hour.

(C) Distillate oil, kerosene, gasoline, natural gas or propane burning equipment brought on site for six months or less for maintenance, construction or similar purposes, such as but not limited to generators, pumps, hot water pressure washers and space heaters, provided that any such equipment that performs the same function as the permanent equipment, must be operated within the source's existing PSEL;

(D) Office activities;

(E) Food service activities;

(F) Janitorial activities;

(G) Personal care activities;

(H) Groundskeeping activities including, but not limited to, building painting and road and parking lot maintenance;

(I) On-site laundry activities;

(J) On-site recreation facilities;

(K) Instrument calibration;

(~~L~~) Automotive storage garages;

(~~M~~) Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;

(N) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;

(~~O~~) Temporary construction activities;

(~~P~~) Warehouse activities;

(~~Q~~) Accidental fires and fire suppression;

(~~R~~) Air vents from air compressors;

(~~S~~) Air purification systems;

(~~T~~) Continuous emissions monitoring vent lines;

(~~U~~) Demineralized water tanks;

(~~V~~) Pre-treatment of municipal water, including use of deionized water purification systems;

(~~W~~) Electrical charging stations;

(X) Fire brigade training only using fire suppression materials that do not contain toxic air contaminants;

(~~Y~~) Instrument air dryers and distribution;

(Z) Fully enclosed process raw water filtration systems;

(~~AA~~) Electric motors;

(BB) Pressurized tanks containing gaseous compounds that do not contain toxic air contaminants

(CC) Vacuum sheet stacker vents;

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

(~~EE~~) Log ponds;

~~(FFZ)~~ Stormwater settling basins;

~~(GGA)~~ Paved roads and paved parking lots within an urban growth boundary;

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

~~(ICC)~~ Health, safety, and emergency response activities;

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

~~(KKD)~~ Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;

~~(LEE)~~ Non-contact steam condensate flash tanks;

~~(MME)~~ Non-contact steam vents on condensate receivers, deaerators and similar equipment;

~~(NNG)~~ Boiler blowdown tanks; and

~~(OO)~~ Ash piles maintained in a wetted condition and associated handling systems and activities.

(4) New or modified TEU requirements.

(a) The owner or operator of a source that has not been notified in writing by DEQ that they are required to submit a risk assessment and that proposes to construct a new or modified TEU must comply with OAR 340-210-0205 through 340-210-0250 before beginning construction of the new or modified TEU;

(b) ~~The owner or operator~~ of a source that has ~~submitted~~ been notified in writing by DEQ that they are required to submit a ~~Toxic Air Contaminant Permit Addendum application~~ risk assessment but has not yet been issued a Toxic Air Contaminant Permit Addendum or an operating permit in compliance with this division and that proposes to construct a new or modified TEU must do the following before beginning construction of the new or modified TEU:

(A) Comply with OAR 340-210-0205 through 340-210-0250; ~~and~~

~~(B)~~ Evaluate risk using the procedures in OAR 340-245-0050;

(C) Submit an updated Toxic Air Contaminant Permit Addendum application; ~~if applicable; and~~

(D) Obtain approval from DEQ prior to construction or modification of any new or modified TEU.

(c) The owner or operator of a source that ~~previously~~ has been issued a Toxic Air Contaminant Permit Addendum or an operating permit in compliance with this division ~~and that proposes to construct a new or modified TEU~~ must follow the applicable procedures in paragraphs (c)(A) through (C) and must pay to

**Commented [GJ31]:** The changes in subsection (b) clarify requirements for new or modified TEUs at sources that have not yet been issued a Toxic Air Contaminant Permit Addendum.

DEQ all applicable specific activity fees under OAR 340-216-~~8020 Table 2 Part 4 and OAR 340-216-8030 Table 3.~~

(A) New or modified exempt TEUs. If the proposed new or modified exempt TEU is subject to National Emission Standards for Hazardous Air Pollutants or New Source Performance Standards requirements, then the owner or operator must request approval of a new or modified exempt TEU under this rule and under OAR 340-210-0205 through 340-210-0250;

(B) ~~New or modified~~ aggregated TEUs.

(i) The owner or operator must request approval of a new or modified TEU to be an aggregated TEU by demonstrating that the risk from the aggregated TEUs, including the new or modified TEU, will be less than or equal to the Aggregate TEU Level. The owner or operator may use any risk assessment procedure, Level 1 through Level 4, under OAR 340-245-0050(8) through (11) ~~for the TEU.~~

~~The owner or operator must receive DEQ approval of the modeling protocol and the risk assessment work plan under OAR 340-245-0210 before performing the risk assessment, if applicable.~~

~~(i) If the owner or operator can demonstrate compliance using a Level 1 Risk Assessment (ii) If the current aggregated TEUs are permitted at the modeled risk levels as specified in OAR 340-245-0050(80060(2)(b)(B), the owner or operator may begin construction or modification of the TEU 10 days after DEQ receives add the approval request or on the date that DEQ approves the proposed construction in writing, whichever is sooner, unless DEQ notifies the owner or operator in writing no later than 10 days after DEQ receives the request that the proposed construction or modification is not approvable as an aggregated TEU; or~~

~~(ii) If the owner or operator uses a Level 2, Level 3 or Level 4 Risk Assessment under OAR 340-245-0050(9) through 340-245-0050(11) to demonstrate that risk from the new or modified TEU may be approved as an aggregated TEU, then to prior results from the latest risk assessment for the source rather than updating the entire risk assessment for the source.~~

~~(iii) The owner or operator may not begin construction must request approval of the a new or modified aggregated TEU by submitting an application to modify its Toxic Air Contaminant Permit Addendum or operating permit as required under OAR 340-245-0100(8).~~

~~(iv) iii The owner or operator of a proposed new or modified aggregate TEU may not begin construction until DEQ has issued a Toxic Air Contaminant Permit Addendum or an operating permit that approves the TEU;~~

(C) New or modified significant TEUs.

(i) The owner or operator must request approval of a new or modified significant TEU by submitting an application to modify its Toxic Air Contaminant Permit Addendum or operating permit that includes the following:

(I) Information necessary to assess the risk from the new or modified significant TEU using any risk assessment procedure, Level 1 through Level 4, under OAR 340-245-0050(8) through (11). The owner or operator may add the risk from the new or modified TEU to prior results from the latest risk assessment for the source rather than updating the entire risk assessment for the source. ~~The owner or operator must receive DEQ approval of the modeling protocol and the risk assessment work plan under OAR 340-245-0210 before performing the risk assessment, if applicable; and~~

**Commented [GJ32]:** These changes update the requirements for constructing or modifying Aggregated TEUs for a source that has been issued a Toxic Air Contaminant Permit Addendum or operating permit.

(II) Information necessary to verify that the new or modified significant TEU meets TLAER, if the source risk is greater than the TLAER Level for a new or reconstructed source, or meets TBACT, if the source risk is greater than the TBACT Level for an existing source- ~~using procedures under OAR 340-245-0220;~~

(ii) The owner or operator of a proposed new or modified significant TEU may not begin construction of the new or modified significant TEU until DEQ has issued a Toxic Air Contaminant Permit Addendum or an operating permit that approves the TEU;

(iii) If a source that was previously determined to be an exempt source under OAR 340-245-0050(6) or a de minimis source under OAR 340-245-0050(7) will no longer be an exempt ~~source~~ or a de minimis ~~source~~ after the new or modified significant TEU is constructed, the owner or operator must follow the procedures in this section and apply for a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100. Such an owner or operator may not begin construction of the new or modified significant TEU until DEQ has issued a Toxic Air Contaminant Permit Addendum or an operating permit that approves the TEU; and

(iv) In conjunction with seeking authorization for the construction of a new or modified significant TEU, if the owner or operator makes simultaneous changes to existing TEUs other than the new or modified significant TEU for the purpose of reducing source risk, then the owner or operator may not begin operation of the new or modified significant TEU until DEQ has issued a Toxic Air Contaminant Permit Addendum or operating permit that approves all such changes to the other TEUs;

(d) DEQ will not approve an application for a Toxic Air Contaminant Permit Addendum required under this rule for a new or modified TEU if:

(A) The TEU does not comply with this rule; or

(B) The source does not comply with OAR 340-245-0050, if required.

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, ~~468A.135, ORS 468A.337 & Or Laws 2018, ch. 102, § 3~~

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ~~ORS 468A.335, ORS 468A.337 & Or Laws 2018, ch. 102, §§ 2 and 3~~

**History:**

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

**340-245-0100**

**Toxic Air Contaminant Permit Addenda**

(1) Purpose and Intent.

(a) A Toxic Air Contaminant Permit Addendum ~~and~~ or conditions included in an operating permit to comply with this division are used to:

(A) Authorize the owner or operator of a source to construct or modify TEUs that discharge toxic air contaminants;

(B) Authorize the owner or operator of a source to discharge toxic air contaminants subject to enforceable permit requirements, limitations, and conditions, including to:

(i) Establish enforceable risk limits for the purpose of limiting the risk from toxic air contaminants from a source;

(ii) Approve, modify and implement a Risk Reduction Plan and require the owner or operator of a source to implement the ongoing requirements; and

(iii) Approve, modify and implement a Voluntary Risk Reduction Plan and require the owner or operator of a source to implement the ongoing requirements;

(C) Approve, modify and implement a Toxic Air Contaminant Monitoring Plan; and

(D) Approve postponement of risk reduction;

(b) A Toxic Air Contaminant Permit Addendum:

(A) For the owner or operator of a source with a General Air Contaminant Discharge Permit, is issued as a source-specific addendum to the operating permit and will not be incorporated into the operating permit;

(B) For the owner or operator of a source with an operating permit other than a General Air Contaminant Discharge Permit:

(i) Is issued to the owner or operator as an addendum to the operating permit and will be incorporated into the operating permit at the time of a permit modification or renewal that subjects all permit conditions to the Category II or Category III public notice procedure in OAR chapter 340, division 209; or

(ii) Will not be issued when the toxic air contaminant permit conditions are incorporated directly into an operating permit after such changes were subject to a public notice period under OAR chapter 340, division 209.

(C) May not be issued to an owner or operator before the source has obtained an operating permit; and

(D) May not be issued in lieu of an otherwise required operating or construction permit.

(2) A Toxic Air Contaminant Permit Addendum amends a source's operating permit, but if the terms of such addendum and the operating permit contain any limit or restriction applicable to the same emissions or processes, then the owner or operator must comply with the more stringent limit or restriction.

(3) Application Requirements. An owner or operator requesting a new or modified Toxic Air Contaminant Permit Addendum must submit an application that includes all of the information specified in subsections (3)(a) through (f) as well as the relevant information required under OAR 340-245-0050. The owner or operator must submit all required information by the submittal deadlines in OAR 340-245-0030, certified by a responsible official that the information submitted is true, accurate, and complete. The owner or operator must submit to DEQ ~~at least two~~ one paper ~~copies~~ copy and one electronic copy of the application.

(a) Identifying information, including the name of the person that owns or operates the source, the owner's or operator's mailing address, the source address, and a description of the nature of business being operated, the name, phone number and email address of the primary contact at the source who is responsible for compliance with the permit, the permit number for an existing source, and the SIC or NAICS code of the source;

(b) The name of a person authorized to receive requests from DEQ for additional data and information;

~~(c) A description of the source's production processes and a flow chart of each process;~~

**Commented [GJ33]:** These changes remove redundant requirements already required in other rules in this division.

~~(d) A plot plan showing the location and height of air contaminant emissions locations at the source. The plot plan must also indicate the nearest residential and commercial properties;~~

~~(e) The type and quantity of all fuel used by the source;~~

~~(c)~~ For owners or operators of sources with Basic or General Air Contaminant Discharge Permits, an emissions inventory required under OAR 340-245-0040(3)(a);

~~(d)~~ For owners or operators of sources with Title V, Standard, or Simple Air Contaminant Discharge Permits, an emissions inventory required under OAR 340-245-0040(3)(a) and (b);

~~(h) Estimated efficiency of air pollution control devices in place at the source under present or anticipated operating conditions;~~

~~(c)~~ Where the operation or maintenance of air pollution control devices and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for DEQ to establish operational and maintenance requirements under OAR 340-226-0120(1) and (2);

~~(f)~~ The final DEQ-approved modeling protocol required under OAR 340-245-0210;

~~(g)~~ The final DEQ-approved Level 3 or Level 4 Risk Assessment work plan required under OAR 340-245-0210, if applicable;

~~(h)~~ The final DEQ-approved risk assessment required under OAR 340-245-0050;

~~(m)~~ Information sufficient to demonstrate that a TEU meets TBACT or TLAER under OAR 340-245-0220, if applicable;

~~(n)~~ For sources whose risk is greater than or equal to the TBACT Level before any additional risk reduction measures are considered, a pollution prevention analysis that meets the requirements of OAR 340-245-0140;

~~(k)~~ The final DEQ-approved Risk Reduction Plan under OAR 340-245-0130, if applicable;

~~(l)~~ The final DEQ-approved postponement of risk reduction under OAR 340-245-0150, if applicable;

~~(m)~~ The final DEQ-approved Toxic Air Contaminant Monitoring Plan under OAR 340-245-0230, if applicable; and

~~(n)~~ Any other information requested by DEQ.

(4) Application review and processing.

(a) DEQ shall use the procedures in OAR 340-245-0030 to review an application submitted under this rule to determine its completeness, consider extension requests, and request additional information, if needed;

(b) If DEQ determines that a Toxic Air Contaminant Permit Addendum is not required during preliminary review of an application, or at any time during application processing, DEQ will notify the applicant in writing;

~~(e) After DEQ considers an application complete, DEQ may hold a public meeting to inform the community about the application and receive feedback;~~

**Commented [GJ34]:** This change removes a redundancy already provided for in the Community Engagement rule (-0120).

~~(d) When DEQ has determined it is prepared to approve~~(c) When DEQ has approved an application for a Toxic Air Contaminant Permit Addendum or operating permit, DEQ will prepare a review report and either draft Toxic Air Contaminant Permit Addendum or a draft operating permit with conditions that comply with this division;

(ed) Prior to initiating any public notice procedure required under OAR 340-245-0050, DEQ will provide a copy of the draft Toxic Air Contaminant Permit Addendum or operating permit to the owner or operator and will provide the owner or operator 14 days to review and provide feedback to DEQ. DEQ may grant an extension for review of the draft permit addendum or operating permit for good cause shown by the owner or operator. Following consideration of comments from the owner or operator, DEQ may revise the draft Toxic Air Contaminant Permit Addendum or operating permit before placing it on public notice; and

(fe) Public notice requirements for issuance of a Toxic Air Contaminant Permit Addendum or operating permit with conditions required under this division.

(A) The minimum public notice procedures for issuance are described in the applicable sections of OAR 340-245-0050. DEQ may enhance the public notice procedures at its discretion;

(B) When required to provide public notice, DEQ will make available to the public the draft Toxic Air Contaminant Permit Addendum or operating permit and a review report that sets forth the legal and factual basis for the permit conditions, including references to the applicable regulatory provisions, the source's most recent risk assessment results, and the level of risk assessment that the source used to perform the risk assessment; and

(C) Prior to determining whether to issue, revise, or deny a Toxic Air Contaminant Permit Addendum or an operating permit with conditions required under this division, DEQ must consider public comments it receives under the applicable public notice procedures that are relevant to the draft permit addendum or operating permit and within the scope of DEQ's authority.

(5) DEQ may not issue a Toxic Air Contaminant Permit Addendum or an operating permit for a source if:

(a) The owner or operator of a proposed new or reconstructed source does not comply with OAR 340-245-0050, 340-245-0060 and this rule, as applicable;

(b) DEQ determines that the emissions from a proposed new or reconstructed source would result in risk at any exposure location that will exceed a Permit Denial Level; or

(c) DEQ determines that the emissions from an existing source would result in risk at any exposure location that will exceed the Immediate Curtailment Risk Action Level.

(6) Content of a Toxic Air Contaminant Permit Addendum or Operating Permit Conditions. A Toxic Air Contaminant Permit Addendum or an operating permit with conditions required under this division must:

~~(a) Identify the name and location of the source and its owner or operator;~~

(a) Identify the name of the person that owns or operates the source, the owner's or operator's mailing address, the source address, and a description of the nature of business being operated, the name, phone number and email address of the primary contact at the source who is responsible for compliance with the permit, the permit number for an existing source, and the SIC or NAICS code of the source;

**Commented [GJ35]:** Change made for consistency with section (3) of this rule.

(b) Include a list of all TEUs that are subject to a Toxic Air Contaminant Permit Addendum or operating permit conditions required under this division, including all exempt TEUs and aggregated TEUs;

(c) Include permit conditions that contain Source Risk Limits to implement the requirements specified in OAR 340-245-0110;

(d) Establish or revise any operating limits or conditions necessary under this division, including annual or short-term toxic air contaminant emission limits, conditions to limit risk from TEUs or the entire source, and operational limits for toxic air contaminants, including limits or levels that are equipment specific, process specific, TEU-specific, or that apply to the entire source;

(e) Include testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with all limits or requirements in the Toxic Air Contaminant Permit Addendum or the operating permit conditions required under this division, as necessary;

~~(f) Include a requirement to obtain applicable construction approval under OAR division 210 or 216;~~  
~~(g) Include complaint line information by providing an email address or phone number for the source's owner or operator, or its representative;~~

~~(h)~~ (f) At the discretion and option of the owner or operator, include a description of the owner's or operator's plans to continue its community engagement activities after DEQ has completed its notification requirements;

~~(i)~~ (g) Include a compliance schedule, as necessary, to ensure compliance or progress toward compliance with the requirements in this division;

~~(j)~~ (h) Include other limits and requirements, as necessary, to ensure compliance with this division; and

~~(k)~~ (i) Include a condition that requires the owner or operator to provide an annual report to DEQ.

(7) Reporting Requirements. The owner or operator must submit a report at least annually to DEQ to demonstrate compliance with all conditions required under this division that are included in a Toxic Air Contaminant Addendum or an operating permit. The report must include:

(a) Twice-annual progress reports required under a Risk Reduction Plan [under OAR 340-245-0130](#);

(b) Periodic TBACT or TLAER update reports; ~~required under OAR 340-245-0220(5)~~;

(c) ~~Whether-Verification~~ there has not been a change in zoning within 1.5 kilometers of the source and, if so, whether that change increases the source risk;

(d) Documentation showing that, for any area that the source demonstrated in its risk assessment was not used in a manner allowed by the land use zoning applicable to the area [as allowed under OAR 340-245-0210](#), the area continues to not be used in the manner allowed by the land use zoning applicable to the area; and

(e) Any other information required to be reported by a condition in the Toxic Air Contaminant Permit Addendum or an operating permit.

(8) Procedures to Modify Toxic Air Contaminant Permit Conditions. If the Toxic Air Contaminant Permit Addendum has not been incorporated into the operating permit, the following procedures must be followed for modifications to existing Toxic Air Contaminant Permit Addenda. Otherwise, the owner or

**Commented [GJ36]:** These changes remove requirements already present in operating permits.

operator must apply for an operating permit modification under OAR 340 division 216 or 218 using the procedures in this division for the following modifications:

(a) Modifications initiated by the owner or operator. An owner or operator must submit an application for modification before making any change described in paragraphs (a)(A) through (J) and that would result in a violation of a condition of the Toxic Air Contaminant Permit Addendum or an operating permit condition required under this division;

(A) Construct or modify a TEU that is:

(i) Exempt under OAR 340-245-0060(4)(c)(A);

(ii) ~~De minimis~~ Aggregate under OAR 340-245-0060(4)(c)(B)(~~ii~~); or

(iii) Significant under OAR 340-245-0060(4)(c)(C);

(B) Modify an established Source Risk Limit or any risk limits or conditions necessary under this division;

(C) Request an extension to a compliance date. The owner or operator must submit the application for extension at least 90 days before the compliance date specified in the current Toxic Air Contaminant Permit Addendum or operating permit. Criteria for granting any extension include the following:

(i) The owner or operator has a clear plan towards meeting the Source Risk Limit;

(ii) The owner or operator has made demonstrated progress towards meeting the requirements that are the subject of the extension request; and

(iii) The owner or operator has submitted documentation proving that the delay is due to reasonably unforeseeable events beyond their control;

(D) Modify any physical feature of the source that was used as a modeling parameter in the risk assessment and that affects the results of the risk assessment, such as but not limited to fence lines, building heights, stack heights, or relocation of a TEU or stack by more than 10 meters;

(E) Terminate postponement of risk reductions;

(F) Modify zoning or land use. The owner or operator must submit an application for modification under this division and revise the risk assessment because submitted under OAR 340-245-0050 no later than 60 days after the following:

(i) The zoning in the area around the facility has changed in a way that could increase risk;

~~(G) Modify the risk assessment because land use~~

(ii) Land use has changed in a way that could increase risk in areas where land uses have been excluded from alternative land use was previously approved for use in the risk assessment under OAR 340-245-0210(1)(a)(F);

~~(H)~~ G Modify air monitoring requirements; and

~~(H)~~ H Revise or update the approved risk assessment. An owner or operator must promptly submit a corrected risk assessment upon becoming aware of the need for corrections or additional information.

**Commented [GJ37]:** Change requires a source to report zoning or land use changes to DEQ.

This requirement is in addition to, and not in lieu of, a DEQ decision to commence an enforcement action against such owner or operator for such violation, as DEQ determines appropriate under the circumstances;

(b) Modifications required by DEQ. When notified in writing by DEQ, the owner or operator must update or correct its previous risk assessment and submit an application for a modification if:

(A) DEQ determines through an investigation or file review that a previous risk assessment contains errors or omissions that, when corrected, could increase the risk;

(B) An RBC in OAR 340-245-80140 Table 24 has been added or lowered that would substantially impact risk, implementation, or effectiveness of the Risk Reduction Plan;

(C) Risk assessment procedures change that would substantially impact risk, implementation, or effectiveness of the Risk Reduction Plan; and

(D) Results of toxic air contaminant monitoring done by the owner or operator show higher risk than any risk determined by the risk assessment;

(c) The owner or operator must submit a complete application for modification, and pay the applicable modification fees in subsection (g). If DEQ has provided notice to the owner or operator under subsection

(b), then the owner or operator must submit the necessary information required under section (3) to DEQ 90 days after the date that DEQ sends such written notice;

(d) DEQ shall use the procedures in OAR 340-245-0030 to review a modification application submitted under this rule to determine its completeness, consider extension requests, and request additional information, if needed;

(e) When updating or correcting a risk assessment, the owner or operator must consult with DEQ and must follow the applicable risk assessment requirements in OAR 340-245-0050;

(f) When DEQ receives an application to modify a Toxic Air Contaminant Permit Addendum or operating permit, DEQ will use the following public notice procedures:

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

(i) Increase source risk;

when an existing or new facility's source risk is above the TBACT or TLAER Risk Action Level prior to the modification, except when the source risk increase is from the addition of an aggregated TEU;

(ii) Increase source risk above a Risk Action Level that requires additional requirements under this division;

(iii) Establish a Risk Reduction Plan for termination of postponement of risk reduction;

~~(iv)~~ Extend any compliance dates in a compliance schedule established in the permit; or

~~(v)~~ Significantly change proposed control methods in a Risk Reduction Plan;

(B) Category I public notice procedures in OAR chapter 340, division 209 for non-technical modifications and basic technical modifications ~~that do not increase risk~~; or

**Commented [GJ38]:** Changes increase flexibility around Public Notice requirements for modifications to a Toxic Air Contaminant Permit Addendum.

(C) Category II public notice procedures in OAR chapter 340, division 209 for all other types of permit changes not described in paragraphs (A) and (B);

(g) The fee for a modification is:

(A) The Complex Technical Modification fee under OAR 340-216-8020 Table Part 4 for modifications under paragraph (f)(A);

(B) The Basic Technical Modification fee or the Non-Technical Permit Modification fee under OAR 340-216-8020 Table 2 Part 4 for modifications under paragraph (f)(B); or

(C) The Moderate Technical Modification fee under OAR 340-216-8020 Table 2 Part 4 for modifications under paragraph (f)(C).

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, ~~468A.135, ORS 468A.337, ORS 468A.345 & Or Laws 2018, ch. 102, §§ 3 and 13~~

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ~~ORS 468A.335, ORS 468A.337, ORS 468A.345~~ & Or Laws 2018, ch. 102, §§ ~~2, 3, 13 and 14~~

**History:**

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

**340-245-0110**

**Source Risk Limits**

(1) The purpose of a Source Risk Limit is to limit the chronic and acute risk from a source that emits toxic air contaminants. DEQ will establish Source Risk Limits based on the results of the risk assessment performed under OAR 340-245-0050. DEQ will establish Source Risk Limits separately for each of the following risk categories: chronic excess cancer risk, chronic noncancer risk and acute noncancer risk.

(a) Source Risk Limits that are based on chronic risk apply on a rolling 12 consecutive month basis and limit the source's chronic risk or annual PTE, as applicable;

(b) Source Risk Limits that are based on acute risk apply on a daily basis and limit the source's acute risk or daily PTE, as applicable; and

(c) DEQ may establish multiple chronic or acute noncancer Source Risk Limits for an individual source on a case-by-case basis to account for risk to different target organs or organ systems.

(2) Establishing Source Risk Limits. For new, reconstructed, and existing sources whose risk is greater than the Source Permit Level, DEQ may set Source Risk Limits based on either:

(a) The level modeled in the risk assessment required under OAR 340-245-0050 using the emissions inventory submitted under OAR 340-245-0040(1); or

(b) For existing sources, a level other than the modeled level that reflects a reasonable estimate of risk from the source taking into account projected operations and other factors, including but not limited to:

(A) Applicable State and Federal limitations;

(B) Established PTE;

(C) Past operations; and

(D) Recent trends in emission rates.

(3) An owner or operator may propose the type of risk limit that will be included in the source's Toxic Air Contaminant Permit Addendum or operating permit, such as a limit on emissions or source operation, or a limit on risk.

(a) Source Risk Limits will generally be based on conditions imposed on emissions, operational parameters, production [activities](#), fuel or raw material usage, as necessary, to maintain risk below the Source Risk Limits; or

(b) Source Risk Limits may be expressed in terms of risk, such as X per million for excess cancer risk or Hazard Index of Y, where X and Y indicate a numerical value.

(4) If a compliance schedule to reduce risk is included in the Toxic Air Contaminant Permit Addendum or operating permit for an existing source, the owner or operator must comply with all the requirements in the compliance schedule and maintain proposed risk below the Immediate Curtailment Level, if applicable.

(5) Determining Compliance with Source Risk Limits.

(a) Frequency. The owner or operator must maintain compliance with the Source Risk Limit on the frequency specified in the Toxic Air Contaminant Permit Addendum or operating permit as follows:

(A) For excess cancer risk, using the annual actual toxic air contaminant emission rates emitted by the source that have cancer RBCs determined on a 12-rolling month basis, compliance must be maintained monthly, unless less frequent compliance requirements are specified in a source's Toxic Air Contaminant Permit Addendum or operating permit;

(B) For chronic noncancer risk, total or separated for each target organ or organ system, using the annual actual toxic air contaminant emission rates emitted by the source that contribute to each chronic noncancer risk determined on a 12-rolling month basis, compliance must be maintained monthly, unless less frequent compliance requirements are specified in a source's Toxic Air Contaminant Permit Addendum or operating permit; and

(C) For acute noncancer risk, total or separated for each target organ or organ system, using the maximum daily actual toxic air contaminant emission rates emitted by the source that contribute to each acute noncancer risk determined for the preceding day, compliance must be maintained daily, unless less frequent compliance requirements are specified in a source's Toxic Air Contaminant Permit Addendum or operating permit;

(b) Compliance records maintenance method.

(A) If the Source Risk Limit is based on emissions, production [activities](#), or other limits on source operation, the owner or operator must monitor emissions, production [activities](#), or other limits on source operation, using one or more of the following methods:

(i) Continuous emissions monitors;

(ii) Material balance calculations;

(iii) Emissions calculations using approved emission factors and process information;

(iv) Production [activity](#) or process parameter monitoring; and

(v) Other methods approved by DEQ;

(B) If the Source Risk Limit is based on risk, the owner or operator must calculate ongoing risk in a manner specified in the source's Toxic Air Contaminant Permit Addendum or operating permit.

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, [468A.135, ORS 468A.337 & Or Laws 2018, ch. 102, § 3](#)

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, [ORS 468A.335, ORS 468A.337 & Or Laws 2018, ch. 102, §§ 2 and 3](#)

**History:**

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

**[340-245-0120](#)**

**Community Engagement**

(1) The purpose of community engagement is to inform the community and provide a mechanism for input to DEQ's work with sources that are called into the program. The requirements of this rule are intended to ensure that consideration of environmental justice is appropriately emphasized throughout implementation of this division.

(2) Notification. When ~~public notice~~ [DEQ holds a public meeting under subsection \(3\)\(a\)](#) ~~is required under this division~~, DEQ will, at a minimum, notify persons with an address in the notification area. DEQ will provide a 30 day notice of any public meeting [held under subsection \(3\)\(a\)](#) by sending an email through GovDelivery or mailing written notice via U.S. mail to such persons. DEQ may enhance the public notice procedures at its discretion. [DEQ may determine notice requirements for any additional public meetings held under subsection \(3\)\(c\)](#).

**Commented [GJ39]:** Change clarifies notification requirements for public meetings held when the Community Engagement Risk Action Level.

(3) Public meetings.

(a) DEQ may hold one or more public meetings [to gather community input prior to drafting proposed permit conditions](#) for new, reconstructed, modified and existing sources if the owner or operator requests Source Risk Limits greater than any of the Community Engagement Levels except as allowed by OAR 340-245-0130(6). DEQ, in consultation with persons who live or spend time within the notification area, may determine that another forum for communication, as listed in section (4), in lieu of or in addition to a public meeting, is appropriate;

(b) If DEQ does not hold a public meeting ~~as specified in subsection (a)~~, DEQ will provide written notice via U.S. mail to all persons with an address in the notification area that the owner or operator has requested Source Risk Limits greater than any of the Community Engagement Levels except as allowed by OAR 340-245-0130(6);

(c) DEQ may ~~at its discretion~~, also hold one or more public meetings for any other reporting, monitoring or permitting action associated with activities under this division [with advanced notice](#);

**Commented [GJ40]:** Changes allow flexibility for public meetings held by DEQ that are not required by exceedance of the Community Engagement Risk Action Level.

(d) In planning and holding public meetings, DEQ will consider:

(A) A location that is Americans with Disabilities Act compliant, is convenient for community members to attend and can be accessed by public transportation, if available;

(B) The timing of the meeting, scheduling in a manner that is convenient to the majority of attendees;

(C) Whether translation services ~~and childcare~~ are necessary, and may provide such services; ~~if needed;~~  
~~and~~

(D) Whether childcare is necessary, and when feasible, may work with providers to render such services;

**Commented [GJ41]:** Change to accommodate potential challenges with providing childcare.

~~(D)~~ Best practices for public and community meetings as identified in resources published by the State of Oregon Environmental Justice Task Force and OHA;

(e) When DEQ determines to hold a public meeting under ~~subsection (3)(a) of this division~~ regarding a source, then the owner or operator must pay the applicable community engagement fee specified in OAR 340-216-8030 Table 3, and at least one representative of the owner or operator must appear at the public meeting.

(4) Other forums for communication. Other forums for communication may include any or all of the following:

(a) Notifying the community of information and reports submitted by an applicant required by this division by sending an email through GovDelivery or mailing written notice via U.S. mail;

(b) Posting all information and reports submitted by an applicant on the DEQ website;

(c) Attending community forums or other local meetings when relevant or requested by the community. The representative of the owner or operator is not required to attend this type of meeting;

(d) Electronic meeting forums such as webinars or conference calls; and

(e) Other activities as determined necessary by DEQ.

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, ORS 468A.337, ORS 468A.343 ~~& Or Laws 2018, ch. 102, §§ 3 and 6~~

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ORS 468A.335, ORS 468A.337, ORS 468A.343 ~~& Or Laws 2018, ch. 102, §§ 2, 3 and 6~~

**History:**

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

**340-245-0130**

**Risk Reduction ~~Plan~~ Requirements**

(1) A Risk Reduction Plan for an existing source must do the following within the specified period of time under OAR 340-245-0030, as applicable:

(a) Reduce risk to less than or equal to the TBACT Level;

(b) Require the owner or operator to meet TBACT on all significant TEUs;

(c) Reduce risk to less than or equal to the Risk Reduction Level; or

(d) Reduce risk to less than or equal to the Community Engagement Level if the owner or operator voluntarily agrees to do so.

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

(a) Two air contaminant emissions inventories:

(A) The emissions inventory for the source submitted under OAR 340-245-0040(1) before implementation of the proposed Risk Reduction Plan measures; and

(B) A projected emissions inventory for the source submitted under OAR 340-245-0040(1) and OAR 340-245-0040(3)(b)(B)(ii)(I) after implementation of the proposed Risk Reduction Plan measures;

(b) The results of a risk assessment performed under OAR 340-245-0050(10) or (11) including the risk calculations before and after full implementation of the Risk Reduction Plan using the emissions inventories required in subsection (a);

(c) An analysis of pollution prevention measures under OAR 340-245-0140, and a description of those measures that the owner or operator has undertaken and included as part of its Toxic Air Contaminant Permit Addendum application;

(d) Identification of each TEU for which an action will be taken to reduce risk, how the risk will be reduced, and for TEUs that are required to meet TBACT:

(A) A demonstration that all significant TEUs at the source meet TBACT under OAR 340-245-0220; ~~and~~ [or](#)

(B) The TBACT analysis under OAR 340-245-0220 that demonstrates that all significant TEUs at the source will meet TBACT when the plan is fully implemented;

(e) A schedule for implementing the proposed Risk Reduction Plan measures within the time frames allowed under section (4), if not sooner. The schedule must specify:

(A) The dates by which the source will implement the proposed Risk Reduction Plan measures;

(B) The dates for submittal of periodic reports showing progress toward completion of the proposed Risk Reduction Plan measures. Progress reports should include achievement of significant milestones, including but not limited to dates of equipment delivery and construction progress; and

(C) The dates for submittal of applications for permits to construct or modify, which must be no later than 90 days after DEQ approval of the Risk Reduction Plan, or other time period approved by DEQ;

(f) The proposed Source Risk Limits.

(3) The owner or operator may request a postponement of risk reduction [for cancer and chronic noncancer risk](#) under OAR 340-245-0150.

(4) Risk Reduction Plan implementation deadlines.

(a) Chronic risk. The owner or operator of a source that has either or both an excess cancer or chronic noncancer source risk that is greater than the TBACT Level must ~~implement~~ [complete implementation of](#) the Risk Reduction Plan within two years from the effective date of the Toxic Air Contaminant Permit Addendum or the operating permit with conditions in compliance with this division, or at an earlier time as required by DEQ in such addendum or operating permit;

**Commented [GJ42]:** Changes clarify deadlines for risk reduction plans.

(A) Except as provided in paragraph (B), the owner or operator may apply for a permit modification as specified under OAR 340-245-0100(8) to request additional time to ~~implement~~complete implementation of risk reductions measures. If the owner or operator, in such application, shows good cause for the modification based on unreasonable hardship to the source, then DEQ may allow the owner or operator not more than two additional years beyond the timeline established in subsection (4)(a).

**Commented [GJ43]:** Changes here limit the extension for risk reduction to two years for chronic risk.

~~(i) Not more than two additional years beyond the initial two years to implement the required risk reduction measures and achieve required risk reductions if the initial excess cancer or chronic noncancer source risk is greater than the TBACT Level but less than the Risk Reduction Level; or~~

~~(ii) Not more than three additional years beyond the initial two years to implement the required risk reduction measures and achieve required risk reductions if the initial excess cancer or chronic noncancer source risk is greater than the Risk Reduction Level;~~

(B) DEQ may not grant a request under paragraph (A) to an owner or operator that has previously received approval for a postponement of risk reduction under OAR 340-245-0150;

(b) Acute risk. The owner or operator of a source that has acute risk that is greater than the TBACT Level must ~~implement~~complete implementation of the Risk Reduction Plan on the following timeline:

(A) Within one month from the effective date of the Toxic Air Contaminant Permit Addendum or the operating permit with conditions in compliance with this division; or

(B) If the owner or operator requests additional time in its Toxic Air Contaminant Permit Addendum application and shows good cause based on unreasonable hardship to the source and an evaluation of health factors, including but not limited to severity of acute health effect, degree of scientific certainty, and averaging time of the acute TRV used to develop the RBC, then DEQ may allow the owner or operator up to and not more than 12 months to ~~implement~~complete implementation of the Risk Reduction Plan.

(5) Reporting Requirements.

(a) The owner or operator of a source that has been issued a Toxic Air Contaminant Permit Addendum or operating permit that includes a Risk Reduction Plan must submit twice-annual progress reports to DEQ describing the source's progress in reducing toxic air contaminant emissions and risk by implementing the Risk Reduction Plan. The progress reports are due to DEQ on or before February 15 and July 31 of each year that the Risk Reduction Plan is in effect, or other dates specified in the Toxic Air Contaminant Permit Addendum or operating permit. The progress reports must include all information required by the Toxic Air Contaminant Permit Addendum or operating permit, including but not limited to:

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

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

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

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

(b) The owner or operator must submit a Risk Reduction Plan completion report to DEQ no later than 60 days after completing all Risk Reduction Plan requirements. The report must include:

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

(B) A summary of the actions taken to implement the Risk Reduction Plan;

(C) The results of the demonstration of the effectiveness of the Risk Reduction Plan measures, including verification of the modeling parameters for all of the TEUs for which risk was reduced; and

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

(6) Voluntary Risk Reductions. DEQ will not conduct community engagement public meetings, as described in OAR 340-245-0120(3), for the owner or operator of an existing source whose risk is less than or equal to the TBACT Level and that agrees to voluntarily reduce risk to below the Community Engagement Level in compliance with the following requirements:-

(a) Voluntary Risk Reduction Plan. An owner or operator must submit for DEQ approval a Voluntary Risk Reduction Plan that follows the requirements and procedures in this rule for submittal of a Risk Reduction Plan to reduce risk to below the Community Engagement Level;

**Commented [GJ44]:** Changes update timelines for the voluntary risk reduction plan for chronic vs. acute risk.

(b) The owner or operator must ~~fully implement~~ complete implementation of the Voluntary Risk Reduction Plan within the following timelines:

(A) Chronic risk.

(i) Two years from the effective date of the Toxic Air Contaminant Permit Addendum, or at an earlier time as required by DEQ. ~~for cancer and noncancer chronic risk; and~~

(ii) If additional time is needed to implement the risk reduction measures, the owner or operator must apply for a permit modification as specified under OAR 340-245-0100(8). If the owner or operator shows good cause for the modification based on unreasonable hardship to the source, then DEQ may allow the owner or operator not more than two additional years beyond the initial two years to complete implementation of ~~implement the required-voluntary~~ risk reduction measures ~~and achieve the voluntary risk reductions~~; ~~and~~

~~(d) If the owner or operator does not implement (ii)~~

(B) Acute risk.

(i) One month from the effective date of the Toxic Air Contaminant Permit Addendum for acute risk; and

(ii) If additional time is needed to implement the risk reduction measures, the owner or operator must apply for a permit modification as specified under OAR 340-245-0100(8). If the owner or operator shows good cause based on unreasonable hardship to the source and an evaluation of health factors, including but not limited to severity of acute health effect, degree of scientific certainty, and averaging time of the acute TRV used to develop the RBC, then DEQ may allow the owner or operator up to and not more than 12 months to complete implementation of the voluntary risk reduction measures ~~Risk Reduction Plan~~; and

(c) If the owner or operator does not complete implementation of the Voluntary Risk Reduction Plan within the approved time, DEQ ~~may~~ shall initiate the community engagement requirements under OAR 340-245-0120.

(7) Immediate Curtailment Risk Reduction Plan. If the results of the DEQ approved Level 3 or Level 4 Risk Assessment, submitted under OAR 340-245-0050, demonstrate source risk is greater than the Immediate Curtailment Level in OAR 340-245-8010 Table 1, the owner or operator must:

**Commented [GJ45]:** Changes create these new sections (7-9) to provide requirements for the Immediate Curtailment Risk Reduction Plan.

(a) Submit to DEQ, by the deadline provided in OAR 340-245-0030(1)(e), an Immediate Curtailment Risk Reduction Plan that describes the actions the source will take to immediately reduce risk below the Immediate Curtailment Level. The Immediate Curtailment Risk Reduction Plan must include:

(A) Specific actions to immediately reduce risk from Significant TEUs, which may include:

(i) Production activity reductions or process modifications;

(ii) Material substitution or product reformulation;

(iii) Additional operations and maintenance; and

(iv) Improvements to, or installation of, pollution control devices;

(B) The amount of risk reduction anticipated from the actions included under paragraph (A) and all supporting estimation methods and calculations; and

(C) Monitoring procedures to ensure the anticipated reduction amounts in paragraph (B) are achieved;

(b) Fully implement the Immediate Curtailment Risk Reduction Plan within ten days of DEQ approval of the plan.

(8) If the owner or operator submits an incomplete Immediate Curtailment Risk Reduction Plan or if DEQ determines that the Immediate Curtailment Risk Reduction Plan is inadequate, then in addition to any other remedies available to DEQ, including authority pursuant to ORS 468.115, if applicable, DEQ may modify the Immediate Curtailment Risk Reduction Plan and order the owner or operator to comply with such plan. The owner or operator must fully implement the modified Immediate Curtailment Risk Reduction Plan within 10 days of receipt.

(9) The owner or operator must comply with the Immediate Curtailment Risk Reduction Plan until:

(a) DEQ issues a Toxic Air Contaminant Permit Addendum under OAR 340-245-0100 with an approved Risk Reduction Plan; and

(b) The owner or operator implements the approved Risk Reduction Plan.

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, [468A.135](#), [ORS 468A.337](#) & [Or Laws 2018, ch. 102, § 3](#)

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, [ORS 468A.335](#), [ORS 468A.337](#) & [Or Laws 2018, ch. 102, §§ 2 and 3](#)

**History:**

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

**340-245-0140**

**Pollution Prevention**

(1) The owner or operator of a source whose risk is greater than ~~or equal to~~ the TBACT Level, before any additional risk reduction measures are considered, is required to do an analysis of pollution prevention measures as provided in this rule.

(2) The owner or operator must evaluate pollution prevention measures that are likely to reduce or eliminate emissions of toxic air contaminants. If the owner or operator chooses to implement any such measures, the owner or operator must include that information in the Toxic Air Contaminant Permit Addendum application.

(3) An analysis of pollution prevention measures must include the following:

(a) A detailed review of source data, including TEU and process level data related to the toxic air contaminants of concern emitted by the source, including:

(A) A process flow diagram depicting all production steps, showing all chemical and material inputs and all processes through which material passes to form a product, and showing the point at which toxic air contaminants enter the system and leave the production unit, with identification of the inputs and outputs relevant to generation of toxic air contaminants; and

(B) Materials accounting which quantifies the total chemical inputs and outputs of a particular toxic air contaminant from each process, and ultimately, source-wide usage and emissions;

(b) The identification of pollution prevention options that includes measures focused on the toxic air contaminants, by-products (outputs, not inputs) and processes that have been mapped and quantified. The categories of toxic air contaminant pollution prevention options include, [but are not limited to](#), the following:

(A) Chemical input alternatives evaluated for hazard characteristics, technical performance, cost and availability, and exposure;

(B) Product reformulation;

(C) Production process redesign or modification;

(D) Production process modernization;

(E) Improved operations and maintenance;

(F) In-process recycling; and

(G) Inventory management controls;

(c) The technical screening and feasibility evaluation of toxic air contaminant pollution prevention options include, but are not limited to, the following:

(A) Performance needs for the application, process or product that contains the toxic air contaminant for which the pollution prevention option is being sought;

(B) Identification of the option as favorable with respect to performance by other industries;

(C) Availability as “off-the-shelf” technology with demonstrated successful use;

(D) Compatibility of the option with existing process technology;

(E) Effects on product quality and compliance with customer specifications; and

(F) Long term viability of the option;

(d) The economic feasibility evaluation of toxic air contaminant pollution prevention options to determine all of the costs and savings associated with implementing the option, include, but are not limited to, the following:

(A) Direct costs or savings (e.g., capital investment, operations and maintenance, annual chemical costs vs. per unit cost);

(B) Indirect costs or savings (e.g., reduced worker health and safety costs, compliance cost reductions, and lower waste and by-product management costs);

(C) Effects on future liability (e.g., liability insurance premium reductions);

(D) Non-monetized costs or benefits (e.g., improved company public image and community relations); and

(E) New revenue sources associated with this option (e.g., will there be new markets for modified products).

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.135, ORS 468A.337 & Or Laws 2018, ch. 102, § 3

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ORS 468A.335, ORS 468A.337 & Or Laws 2018, ch. 102, §§ 2 and 3

**History:**

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

**340-245-0150**

**Postponement of Risk Reduction**

(1) Postponement of risk reduction is only available for existing sources for cancer and noncancer chronic risk, and cannot be approved if risk is over the Immediate Curtailment Level. An owner or operator may request postponement of risk reduction for one five year period. After that five year period, the owner or operator must reduce risk in accordance with OAR 340-245-0130.

(2) An owner or operator of an existing source requesting postponement of the requirement to reduce risk for one or more significant TEUs must submit a request to DEQ that includes the following:

(a) Information proving inability to pay: as described in section (4);

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

(c) An analysis of:

(A) All risk reduction measures that the owner or operator is required to undertake to reduce risk; and

(B) The cost to install, operate and maintain each risk reduction measure identified in paragraph (A) for which a postponement is being requested;

(d) A description of any other interim risk reduction measures, including a pollution prevention analysis under OAR 340-245-0140, that will be taken to reduce risk in lieu of implementing each risk reduction measure identified in paragraph (c)(A) for which a postponement is being requested and when those interim risk reduction measures will be implemented; and

(e) The number of employees at the source.

(3) An owner or operator must include a postponement request in the source's Toxic Air Contaminant Permit Addendum application under OAR 340-245-0100.

(4) The owner or operator making a request to postpone risk reduction:

(a) Must use the applicable U.S. Environmental Protection Agency's ABEL, INDIPAY or MUNIPAY computer model, or a substantially equivalent analysis approved by DEQ, to evaluate financial condition or ability to pay the full cost of reducing risk or meeting TBACT in accordance with EPA standards for determining ability to pay. The models' standard input values are presumed to apply unless the owner or operator can demonstrate that the standard values do not reflect the owner's or operator's actual circumstances. DEQ may generally determine that the owner or operator is able to pay if the model results show that the owner or operator has a 70% probability of being able to absorb the cost of meeting TBACT or implementing other physical, operational or process changes that could be made to reduce risk; and

(b) Is required to provide DEQ, on a confidential basis if the information meets the requirements of OAR 340-214-0130, audited financial information about the source. The information must include federal tax returns for the most recent three years, the most current year's audited financial statement, a signed auditor's statement provided by a certified public accountant, the source's latest income statement and balance sheet, and other information regarding the owner's or operator's financial condition on a form required by DEQ. The information will be held as confidential to the extent consistent with the Oregon Public Records Law, ORS 192.311 through 192.478.

(5) Negotiation and consultation.

(a) DEQ may negotiate alternatives to the postponement with the owner or operator, and may consider such alternatives in the final determination regarding whether to approve the postponement; and

(b) DEQ will consult with OHA, local elected officials, local [Indian Tribal](#) governing bodies, and relevant state and federal agencies that have jurisdiction in the notification area before making a final determination regarding the postponement.

(6) DEQ may grant a request for postponement of risk reduction in full or in part and impose any conditions, implementation of reasonable alternative measures, and implementation schedules that DEQ determines are appropriate based on the following:

(a) Evaluating the following at exposure locations where risk will exceed an applicable Risk Action Level:

(A) The presence of sensitive populations, including people with low income, members of a minority group, and residents under five years old; and

(B) The total population that lives within the notification area of the source;

(b) Considering both the potential economic harm to the owner or operator of the source of requiring that the owner or operator make the identified risk reductions against the burden of risk to the exposed population if the risk reductions are postponed.

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, [468A.135](#), [ORS 468A.337](#) & [Or Laws 2018, ch. 102, § 3](#)

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, [ORS 468A.335](#), [ORS 468A.337](#) & [Or Laws 2018, ch. 102, §§ 2 and 3](#)

**History:**

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

**340-245-0200**

**Risk Estimates**

(1) When a risk assessment is required under this division, the risk assessment must consider the toxic air contaminants and the Risk-Based Concentrations listed in OAR 340-245-801.40 Table 4-2 to assess excess cancer and noncancer risk.

(2) Directions for [using](#) the Level 1 Risk Assessment ~~Tool~~ [Dispersion Factor Tables](#).

(a) An owner or operator that chooses to perform a Level 1 Risk Assessment under OAR 340-245-0050, must calculate a separate sum of risk ~~ratios~~ for each of the following categories: excess cancer risk, chronic noncancer risk, and acute noncancer risk for the applicable exposure ~~locations~~ [scenarios](#);

(b) When making this calculation, the owner or operator must use the emissions inventory submitted under OAR 340-245-0040(1) for:

(A) Excess cancer risk and chronic noncancer risk, the average annual emission rates; and

(B) Acute noncancer risk, the maximum daily emission rates.

(c) The owner or operator must perform each of the following calculations in paragraphs (A) and (B), except as allowed in paragraph (C):

(A) For excess cancer risk and chronic noncancer risk:

(i) For each TEU [with emissions from a stack, vent, duct, or equivalent opening](#), use the stack height and distance to the nearest exposure locations to identify the appropriate dispersion factor under OAR 340-245-801.50 Table 3-5A. If the TEU is a [volume](#) fugitive source [that is not emitted from a stack, vent, duct, or equivalent opening](#), use the area and height of the building and distance to the nearest exposure locations to identify the appropriate dispersion factor under OAR 340-245-801.50 Table 3-5C;

**Commented [GJ46]:** Changes provide clarity for stack and fugitive emissions.

(ii) For each TEU and each toxic air contaminant emitted from the TEU, multiply the annual emission rate by the dispersion factor identified under subparagraph (i) to calculate an air concentration at the nearest exposure location;

(iii) For each TEU, divide the air concentration of each toxic air contaminant calculated under subparagraph (ii) by the appropriate RBC of that toxic air contaminant under OAR 340-245-801.40 Table 4.2;

(iv) For each TEU, add up the risk from each toxic air contaminant calculated under subparagraph (iii); and

(v) For all TEUs, add up all of the risks calculated under subparagraph (iv) to obtain the total excess cancer risk in one million or the total chronic noncancer Hazard Index for the entire source. For chronic noncancer risk, Hazard Indices may be calculated by noncancer target organ or organ systems in consultation with DEQ;

(vi) When an existing source emits a mixture of toxic air contaminants assigned noncancer TBACT Risk Action Levels of both a Hazard Index of 3 and a Hazard Index of 5 as identified in OAR 340-245-~~8030~~8010, Table 3.2 and OAR 240-245-801.40, Table 4.2, and the combined Hazard Index for all TACs is greater than 3, the owner or operator must calculate a Risk Determination Ratio using the formula in section (5) of this rule.

**Commented [GJ47]:** Change provides clarity when a Risk Determination Ratio is required to be calculated.

(B) For acute noncancer risk:

(i) For each TEU with emissions from a stack, vent, duct, or equivalent opening, use the stack height and distance to the nearest exposure location to identify the appropriate dispersion factor under OAR 340-245-801.50 Table 3.5B. If the TEU is a volume fugitive source that is not emitted from a stack, vent, duct, or equivalent opening, use the area and height of the building and distance to the nearest exposure locations to identify the appropriate dispersion factor under OAR 340-245-801.50 Table 3.5D;

**Commented [GJ48]:** Changes provide clarity for stack and fugitive emissions.

(ii) For each TEU and each toxic air contaminant emitted from the TEU, multiply the maximum daily emission rate by the dispersion factor identified under subparagraph (i) to calculate an air concentration at the nearest exposure location;

(iii) For each TEU, divide the air concentration of each toxic air contaminant calculated under subparagraph (ii) by the acute RBC for that toxic air contaminant under OAR 340-245-801.40 Table 4.2;

(iv) For each TEU, add up the risk from each toxic air contaminant calculated under subparagraph (iii); and

(v) For all TEUs, add up all of the risks calculated under subparagraph (iv) to obtain the total acute noncancer Hazard Index for the entire source. Hazard Indices may be calculated by noncancer target organ or organ systems in consultation with DEQ;

(vi) When an existing source emits a mixture of toxic air contaminants assigned noncancer TBACT Risk Action Levels of both a Hazard Index of 3 and a Hazard Index of 5 as identified in OAR 340-~~245-~~~~8030~~247-8010, Table 3.2 and OAR 340-245-801.40, Table 4.2, and the combined Hazard Index for all TACs is greater than 3, the owner or operator must calculate a Risk Determination Ratio using the formula in section (5) of this rule.

**Commented [GJ49]:** Change provides clarity when a Risk Determination Ratio is required to be calculated.

(C) Instead of using stack height and distance or area and height of the building and distance to the nearest exposure locations to obtain the appropriate dispersion factor under OAR 340-245-801~~50~~ Table 3~~5~~, the owner or operator may instead use, as a default, the most conservative dispersion factor;

(i) For ~~stack emissions~~ emissions from a stack, vent, duct, or equivalent opening, use the dispersion factor associated with a stack height of five meters and an exposure location distance of 50 meters, which is listed in the upper-left corner of OAR 340-245-801~~50~~ Table 3~~5~~A and 3B;

**Commented [GJ50]:** Changes provide clarity for stack and fugitive emissions.

(ii) For volume fugitive emissions that are not emitted from a stack, vent, duct, or equivalent opening, use the dispersion factor associated with an area of less than or equal to 3,000 square feet, a building height of less than or equal to 20 feet, and an exposure location distance of 50 meters, which is listed in the upper-left corner of OAR 340-245-801~~50~~ Table 3~~5~~C and 3D; and

(iii) Using these default dispersion factors will result in protective calculations of risk. If the risks calculated using these default dispersion factors are less than or equal to the applicable Risk Action Levels, the owner or operator may choose to use the risks calculated in this manner to show compliance with the Source Risk Limits. However, if the actual source characteristics such as terrain features, exposure location distances less than 50m, unusual stack or building configurations, or other factors, invalidate the assumptions used to develop the Level 1 Risk Assessment Dispersion Factor Tables, DEQ at its discretion, may disapprove the Level 1 assessment, as described in OAR 340-245-0050 (8)(c).

(3) Sum of Risk ~~Ratios~~ calculation procedure for Level 2, Level 3 and Level 4 Risk Assessments.

(a) An owner or operator that chooses to perform a Level 2, Level 3 or Level 4 Risk Assessment under OAR 340-245-0050, must calculate a separate sum of ~~risk ratio~~ risks for each of the following risk categories: excess cancer risk, chronic noncancer risk, and acute noncancer risk for the applicable exposure locations;

(b) When making this calculation, the owner or operator must use the following modeled ambient concentrations for each toxic air contaminant at all exposure locations:

(A) For excess cancer risk and chronic noncancer risk, the annual average concentrations must be used; and

(B) For acute noncancer risk, the maximum daily concentrations must be used;

(c) The owner or operator must perform the following calculations for each of the risk categories listed in subsection (a) and using the concentrations in subsection (b):

(A) For each TEU, divide the modeled concentration of each toxic air contaminant by the appropriate RBC of that toxic air contaminant under OAR 340-245-801~~40~~ Table 4~~2~~ ensuring that the concentration is expressed in micrograms per cubic meter;

(B) For each TEU, add up the risk from each toxic air contaminant calculated under paragraph (A); and

(C) For all TEUs at each exposure location, add up all of the risks calculated under paragraph (B) to obtain the total excess cancer risk in one million, the total chronic noncancer Hazard Index, or the total acute noncancer Hazard Index for the entire source. For noncancer risk, Hazard Indices may be calculated by noncancer target organ or organ systems in consultation with DEQ.

(D) When an existing source emits a mixture of toxic air contaminants assigned noncancer TBACT Risk Action Levels of both a Hazard Index of 3 and a Hazard Index of 5 as identified in OAR 340-~~245-8030~~~~247-247~~-8010, Table 32 and OAR 340-245-80140, Table ~~4-2~~, and the combined Hazard Index for all TACs is greater than 3, the owner or operator must calculate a Risk Determination Ratio using the formula in section (5) of this rule

**Commented [GJ51]:** Change provides clarity when a Risk Determination Ratio is required to be calculated.

(4) Significant figures and rounding. When a risk is calculated for comparison to a Risk Action Level or Source Risk Limit:

(a) The final risk calculation must be rounded off as follows:

(A) For comparison to the Aggregate TEU Level, Risk Determination Ratio, and the Source Permit Level, round off to one decimal place; and

(B) For comparison to other Risk Action Levels or Source Risk Limits, round off to a whole number;

(b) Round up if the last figure to be rounded off is 5 or greater, otherwise round down.

(c) Use of rounded numbers in making final risk calculations is not allowed. Only the final risk number may be rounded as described in this section.

(5) Calculating a Risk Determination Ratio. The formula for calculating a Risk Determination Ratio is:

**Combined Noncancer Risk for HI3 chemicals =**

(Concentration of HI3 chemical #1 / Risk-Based Concentration for chemical #1) + (Concentration of HI3 chemical #2 / Risk-Based Concentration for chemical #2) + continue for all HI3 chemicals emitted

**Combined Noncancer Risk for HI5 chemicals =**

(Concentration of HI5 chemical #1 / Risk-Based Concentration for chemical #1) + (Concentration of HI5 chemical #2 / Risk-Based Concentration for chemical #2) + continue for all HI5 chemicals emitted

**Risk Determination Ratio =** (Combined Risk for HI3 chemicals / 3) + (Combined Risk for HI5 chemicals / 5)

HI3 = Toxic air contaminants assigned noncancer TBACT Risk Action Level of 3 (OAR 340-~~245-8030~~~~247-8010~~, Table 32 and OAR 340-245-80140, Table ~~4)2~~).

HI5 = Toxic air contaminants assigned noncancer TBACT Risk Action Level of 5 (OAR 340-~~245~~~~247-80-8030~~~~120~~, Table 32 and OAR 340-245-80140, Table ~~4)2~~).

Concentration = monitored or modeled concentrations of toxic air contaminant at exposure location for use in risk assessment.

RBC = risk-based concentrations in OAR 340-245-80140 Table 24.

**Statutory/Other Authority:** ORS 468.020, ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.135, ORS 468A.337 & Or Laws 2018, ch. 102, §§ ~~3 and 7~~

**Statutes/Other Implemented:** ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ORS 468A.335, ORS 468A.337 & Or Laws 2018, ch. 102, §§ ~~2, 3, and 7~~

**History:**

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DEQ 8-2020, amend filed 04/24/2020, effective 04/24/2020

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

**340-245-0210****Modeling and Risk Assessment Work Plan Requirements**

The owner or operator of a source must follow the applicable procedures in this rule when required to perform a risk assessment under OAR 340-245-0050 or 340-245-0060.

(1) Modeling Requirements. All modeled estimates of ambient concentrations required under this division must be based on the applicable air quality models and other requirements as specified in 40 CFR part 51, Appendix W, "Guidelines on Air Quality Models (Revised)," or a substantially equivalent model or requirement approved by DEQ. Any change or substitution from models and procedures specified in 40 CFR part 51, Appendix W must be approved by DEQ in advance and incorporated in the modeling protocol. AERSCREEN and AERMOD are examples of approved air quality models.

(a) When choosing to perform a Level 1 Risk Assessment or modeling for a Level 2, Level 3 or Level 4 Risk Assessment, the owner or operator of a source must first submit a modeling protocol that must be approved by DEQ as required in OAR 340-245-0030. The necessary information to perform any modeling will depend on the risk assessment level and the model being used, if any, and may include but is not limited to:

(A) [Emissions Toxic air contaminant emission rates based on the emissions](#) inventory submitted under OAR 340-245-0040(1);

(B) Stack parameter and building data, including stack height above ground, [stack orientation and configuration](#), exit diameter, exit velocity, and exit temperature, for all existing and proposed emission points from the source, and dimension data of buildings;

(C) Meteorological and topographical data;

(D) Information about the dispersion models and modeling parameters used;

(E) Exposure locations where ambient concentrations will be modeled;

(F) For determining exposure locations where ambient concentrations will be modeled, an owner or operator may provide documentation to demonstrate an area is not being used in the manner allowed by the land use zoning at the time the modeling is to be performed, and may request that the land use zoning classification of these areas be excluded in determining chronic exposure locations. If DEQ approves an exclusion under this paragraph, then:

(i) The owner or operator must model the approved locations based on their actual use;

(ii) The owner or operator must annually submit to DEQ documentation showing the areas subject to the excluded land use zoning classification continue to not be used in the manner allowed by the land use zoning applicable to the area; and

(iii) If the annual documentation provided under subparagraph (ii) shows the area is being used in the manner allowed by the land use zoning and results in potential exposure to toxic air contaminants from the source, the owner or operator must update the risk assessment based on the change in use and apply

for a Toxic Air Contaminant Permit Addendum modification under OAR 340-245-0100(8) or for an operating permit modification under OAR 340 division 216 or 218 using the procedures in this division, if applicable;

(G) Use of other exposure locations where DEQ determines, based on documented evidence, that an area is not being used in the manner allowed by the land use zoning at the time the modeling is to be performed, such area should be considered an exposure location based on its actual use; and

(H) Other information that may be necessary to estimate air quality concentrations and risk at exposure locations;

(b) For the purpose of any risk assessment undertaken by DEQ, the owner or operator of any permitted or unpermitted source must submit the information in subsection (a) within 30 days of the written request from DEQ. DEQ shall use the procedures in OAR 340-245-0030 to review the information in determining its completeness, consider extensions requests, and request additional information, if needed.

(2) Risk assessment work plan requirements. When choosing to conduct a Level 3 or Level 4 Risk Assessment, the owner or operator of a source must submit a risk assessment work plan that must be approved by DEQ as required in OAR 340-245-0030. The work plan must be developed in consultation with DEQ and include but is not limited to:

(a) A problem formulation step ending with development of a conceptual site model identifying TEUs and exposure locations;

(b) An exposure assessment that models or measures toxic air contaminant concentrations at exposure locations;

(c) A risk characterization presenting a quantitative calculation of excess cancer, chronic noncancer and acute noncancer health risks associated with human exposure to toxic air contaminant emissions from the source;

(d) A quantitative or qualitative uncertainty evaluation of appropriate elements of the risk assessment;

(e) A Level 4 Risk Assessment must also include a toxicity assessment evaluating the carcinogenic effects, noncarcinogenic chronic effects, and noncarcinogenic acute effects of toxic air contaminants to which human populations may be exposed, and determining persistence and bioaccumulation potential. Sources may not consider Toxicity Reference Values other than those listed in OAR 340-~~245-8030247247247-80120~~ Table ~~32~~; and

(f) In a Level 4 Risk Assessment, the owner or operator may propose modifications to default exposure assumptions, including but not limited to:

(A) Exposure times, frequencies, and durations;

(B) Relative bioavailability of chemicals; and

(C) Multipathway considerations for persistent, and bioaccumulative and toxic chemicals.

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, ~~468A.135, ORS 468A.337 & Or Laws 2018, ch. 102, § 3~~

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155,

468A.010, 468A.015, 468A.035, [ORS 468A.335](#), [ORS 468A.337](#) & ~~Or Laws 2018, ch. 102, §§ 2 and 3~~

**History:**

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

**[340-245-0220](#)**

**TBACT and TLAER Procedures**

(1) If required to meet TBACT or TLAER on any significant TEU, the owner or operator of a source must perform a TBACT or TLAER analysis.

(a) The owner or operator of an existing source must conduct a case-by-case TBACT analysis under section (3), except as provided in section (2);

(b) The owner or operator of a new or reconstructed source must conduct a case-by-case TLAER analysis under section (4);

(c) The owner or operator must submit the TBACT or TLAER analysis to DEQ for approval, and the owner or operator must pay the case-by-case TBACT or TLAER fee, as applicable, specified in OAR 340-216-8030 Table 3 and OAR 340-245-0400;

(d) A TEU is determined to meet TBACT if DEQ approves the TBACT analysis for the TEU and the owner or operator has implemented all operational or source modifications required to meet TBACT, or will implement them on an enforceable compliance schedule included in its Toxic Air Contaminant Permit Addendum or operating permit; and

(e) A TEU is determined to meet TLAER if DEQ approves the TLAER analysis for the TEU and the owner or operator has implemented all operational or source modifications required to meet TLAER upon beginning operation of the new or reconstructed source.

(2) Presumptive TBACT. For an existing TEU, compliance with emission control requirements, work practices or limitations established by a major source NESHAP adopted by the EPA after 1993 and before April 10, 2018 is deemed to be TBACT, provided that:

(a) The emission control requirements, work practices or limitations result in an actual reduction to the emissions of the hazardous air pollutants regulated under the NESHAP; and

(b) There are no other toxic air contaminants emitted by the source that:

(A) Are not controlled by the emission control requirements, work practices or limitations established by a major source NESHAP; and

(B) Materially contribute to public health risks;

(c) TEUs that are subject to and comply with OAR 340-244-9000 through 340-244-9090, Colored Art Glass Manufacturing rules, or OAR 340-245-9000 through 340-245-9080, Colored Art Glass Manufacturing rules, meet TBACT and a case-by-case determination is not required for such TEUs.

(3) Case-by-Case TBACT determination. The owner or operator of the TEU must submit a proposed case-by-case TBACT analysis to DEQ for review and approval.

(a) TBACT must be a toxic air contaminant emissions limitation or emissions control measure based on the maximum degree of reduction of toxic air contaminants that is feasible considering:

(A) What has been achieved in practice for:

(i) Sources in the same class as the source to which the toxic air contaminant emissions limitation or control measure will apply, as classified under ORS 468A.050; or

(ii) Processes or emissions similar to the processes or emissions of the source;

(B) Energy, health, and environmental impacts not related to air quality; and

(C) Economic impacts and cost-effectiveness, including the costs of changing existing processes or equipment or adding equipment or controls to existing processes and equipment;

(b) TBACT may be based on a design standard, equipment standard, work practice standard or other operational standard, or a combination thereof; and

(c) In assessing the cost-effectiveness of any measure for purposes of determining TBACT for a source, DEQ will assess only the economic impacts and benefits associated with controlling toxic air contaminants.

(4) Case-by-Case TLAER determination. The owner or operator of the TEU must submit a proposed case-by-case TLAER analysis to DEQ for review and approval.

(a) DEQ will review a case-by-case TLAER analysis and ensure that it is a toxic air contaminant emissions limitation or emissions control measure that is the maximum degree of reduction technically feasible without regard to energy impacts, health and environmental impacts, or economic impacts; and

(b) TLAER is not considered achievable if the cost of control is so great that a new source could not be built or operated because it was rendered economically infeasible. If some other facility in the same or a comparable industry uses that control technology, then such use constitutes evidence that the cost to the industry of that control is not prohibitive.

(5) Periodic TBACT or TLAER Reviews. If the owner or operator is required to meet TBACT or TLAER, the owner or operator must perform and submit periodic TBACT or TLAER reviews in a TBACT or TLAER update report as follows:

(a) For all significant TEUs for which the most recent TBACT or TLAER determination concluded that no toxic air contaminant emission limits or additional control measure was required, submit a TBACT or TLAER review to DEQ with each permit renewal;

(b) For all significant TEUs that currently meet TBACT or TLAER through toxic air contaminant emission limits or control measures, submit a TBACT or TLAER review when notified by DEQ. If DEQ learns of new technologies, devices or practices that could reduce toxic air contaminant emissions or improve on control measures, DEQ will notify the owner or operator in writing that a TBACT or TLAER review is required and may specify a submittal deadline in the notification;

(c) The TBACT or TLAER update reports must include the following:

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

(B) For each new or improved emissions control measure identified, a statement whether or not the owner or operator intends to apply the control measure;

(i) If the owner or operator intends to apply the control measure, then the owner or operator must provide an estimated date by which the control measure will be applied; or

(ii) If the owner or operator does not intend to apply the control method, then the owner or operator must provide justification for not applying it, including at a minimum, a review following the procedures of OAR 340-245-0220(3) or (4);

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

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

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

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

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

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

(B) If DEQ's final determination is that the owner or operator must apply the control measure, then DEQ may:

(i) After consultation with the owner or operator, determine the date by which the owner or operator must apply the control measure; and

(ii) Determine a new Source Risk Limit based on information on the amount of toxic air contaminants removed by the control measure and issue a modified Toxic Air Contaminant Permit Addendum or operating permit.

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, [468A.135](#), [ORS 468A.337](#) & [Or Laws 2018, ch. 102, § 3](#)

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, [ORS 468A.335](#), [ORS 468A.337](#) & [Or Laws 2018, ch. 102, §§ 2 and 3](#)

**History:**

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

**[340-245-0230](#)**

**Toxic Air Contaminant Monitoring Requirements**

(1) An owner or operator of a source that chooses to perform toxic air contaminant monitoring under OAR 340-245-0050 must submit an application for a Toxic Air Contaminant Permit Addendum and a Toxic Air Contaminant Monitoring Plan, developed in consultation with and approved by DEQ in a Toxic

Air Contaminant Permit Addendum, before beginning toxic air contaminant monitoring. Toxic air contaminant monitoring must be conducted for a period of not less than 12 months with at least 12 months of valid data with greater than 75 percent data completeness per quarter.

(2) Public involvement requirements. DEQ shall work with the owner or operator to develop public information concerning an approved Toxic Air Contaminant Monitoring Plan and the timeline for the approved Toxic Air Contaminant Monitoring Plan.

(3) Toxic air contaminant monitoring requirements. The owner or operator must submit a Toxic Air Contaminant Monitoring Plan in accordance with OAR 340-245-0030 that includes but is not limited to:

- (a) Identification of all toxic air contaminants that will be monitored;
- (b) A description of all proposed monitoring locations;
- (c) A description of the monitoring and analysis protocols for each toxic air contaminant to be monitored, including at a minimum:
  - (A) The monitoring equipment and methods to be used for each toxic air contaminant;
  - (B) The sampling methods, including sample handling and custody storage requirements;
  - (C) The frequency of sampling at each monitoring location; the duration of each sample (i.e., the length of time in hours that each sample runs), and time of year;
  - (D) Analytical methods and the analytical method detection limits and reporting limits to be used for each toxic air contaminant;
  - (E) Quality assurance and quality control measures to be taken and who will be performing these measures; and
  - (F) Descriptions of security measures to protect the monitoring equipment;
- (d) A description of how to determine and account for the ambient concentration of each toxic air contaminant being monitored that results from all causes other than the source under consideration, including natural and unknown causes;
- (e) A description of how and where meteorological monitoring will be performed and the meteorology equipment used; and
- (f) A description of how the data will be reduced and how often the results will be reported to DEQ.

(4) Reporting Requirements. The owner or operator of a source that has been issued a Toxic Air Contaminant Permit Addendum or operating permit that includes air monitoring requirements must report to DEQ the following information:

- (a) Monthly monitoring result reports, no more than 30 days after all monitoring data becomes available for the month to which the data applies. The reports must include but is not limited to:
  - (A) Ambient toxic air contaminant concentrations, all daily risks and all monthly average risks from all monitoring locations specified in the Air Monitoring Plan;

(B) Meteorological data summary;

(C) Daily production data; and

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

(b) An air monitoring final report, no more than 60 calendar days after completing all Toxic Air Contaminant Monitoring Plan requirements that also includes a description of any process changes that have occurred during the air monitoring period that may affect the results of the monitoring.

(5) Air monitoring results.

(a) Upon completion of the air monitoring, the owner or operator must submit to DEQ an assessment of risk based on the air monitoring data and other relevant information;

(b) For all toxic air contaminants that are not monitored, or for which monitoring results were inconclusive, the owner or operator must use the modeled concentrations of those toxic air contaminants and add the risk from the modeled concentrations to the risk from the monitored concentrations to arrive at a total risk from the source; and

(c) Upon receipt of air monitoring data and assessment of risk under subsections (a) and (b), DEQ will review the submittal and approve or deny it in accordance with the procedures OAR 340-245-0100(4).

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, ~~468A.135, ORS 468A.337 & Or Laws 2018, ch. 102, § 3~~

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ~~ORS 468A.335, ORS 468A.337 & Or Laws 2018, ch. 102, §§ 2 and 3~~

**History:**

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

~~340-245-0300~~

~~Toxicity Reference Values~~

~~(1) This rule lists sources of toxicity information that OHA and DEQ consider authoritative in terms of their scientific rigor and methods for producing toxicity information. OHA and DEQ will recommend adoption and use of Toxicity Reference Values from the toxicity information published by the following authoritative sources:~~

~~(a) DEQ Ambient Benchmark Concentrations specified in OAR chapter 340, division 246;~~

~~(b) DEQ and OHA Short-term Guideline Concentrations;~~

~~(c) EPA Integrated Risk Information System (IRIS) or Office of Superfund Remediation and Technology Innovation (OSRTI);~~

~~(d) United States Agency for Toxic Substances and Disease Registry (ATSDR); and~~

~~(e) California's Office of Environmental Health Hazard Assessment (OEHHA).~~

~~(2) DEQ will calculate Toxicity Reference Values using one in one million as the target excess cancer risk level or a hazard quotient of one for noncancer Toxicity Reference Values.~~

~~**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155 & Or Laws 2018, ch. 102, § 3~~

~~**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035 & Or Laws 2018, ch. 102, §§ 2 and 3~~

Commented [GJ52]: This rule moved to division 247.

**History:**

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

**340-245-0310**

**Process for Updating ~~Lists of Regulated Toxic Air Contaminants and Their Risk-Based Concentrations~~ for Toxic Air Contaminants**

(1) Purpose.

~~(a) As risk assessment and toxicological sciences advance, it is important to have rules for Cleaner Air Oregon that allow for that health risk-based standards for~~ air quality ~~regulation to~~ continue to reflect the latest practices and science. The list of toxic air contaminants that are regulated and their RBCs represent one area where regulations will need regular updating to accommodate advancing science and practices; to ensure that impacts to public health from industrial air emissions are minimized.

~~(b) These rules include two lists of toxic air contaminants:~~

~~(A) OAR 340-245-8020 Table 2 contains toxic air contaminants that are for emissions reporting. The primary purpose of OAR 340-245-8020 Table 2 is to inform prioritization of RBC development and maintain a current and broad understanding of statewide toxic air contaminant emissions as industries and industrial practices change over time. The toxic air contaminants listed OAR 340-245-8020 Table 2 must be addressed in the uncertainty evaluation in a Level 3 or Level 4 Risk Assessment for the toxic air contaminants in OAR 340-245-8020 Table 2 that do not have RBCs; and~~

~~(B) OAR 340-245-8030 Table 3 contains toxic air contaminants for which TRVs are readily available and OAR 340-245-8040 Table 4 contains RBCs for regulation as part of air permitting. The purpose of OAR 340-245-8030 Table 3 and OAR 340-245-8040 Table 4 is to ensure that impacts to public health from industrial air emissions are minimized.~~

~~(2) OAR 340-245-8020 Table 2, Toxic Air Contaminant Reporting List.~~

~~(a) The Toxic Air Contaminant Reporting List is comprised of California Air Resources Board's Toxic Air Contaminant Identification List Appendix A-1, Washington's Table of ASIL, SQER and de minimis emission values, Oregon's Toxics Focus list, and EPA's Hazardous Air Pollutants list;~~

~~(b) Every three years starting from November 16, 2018, DEQ, in consultation with OHA, (2) Process for updating risk-based concentrations.~~

~~(a) DEQ will review the four lists in subsection (a) for changes and may propose to update the Toxic Air Contaminant Reporting List in OAR 340-245-8020 Table 2 to capture changes in any of those four lists over the intervening three years;~~

~~(c) During the reviews of the Toxic Air Contaminant Reporting List, DEQ may also propose to add or remove toxic air contaminants based on information gathered from past reporting, industry types in Oregon that are not in California or Washington, or OHA's and DEQ's knowledge of toxic air contaminants that may be of potential public health concern in Oregon; and~~

~~(d) Owners or operators of sources must report emissions of any newly listed toxic air contaminant during the next periodic state-wide emissions inventory required in OAR 340-245-0040 following the new listing, or earlier upon request by DEQ.~~

~~(3) OAR 340-245-8030 Table 3, Toxicity Reference Values and OAR 340-245-8040 Table 4, Risk Based Concentrations.~~

~~(a) The list of Risk Based Concentrations is comprised of all toxic air contaminants from the Toxic Air Contaminants Reporting List for which OHA and DEQ were able to establish RBCs;~~

~~(b) Every three years starting from November 16, 2018, or as necessary, DEQ, in consultation with OHA, will review the toxic air contaminants and Toxicity Reference Values published by the authoritative sources listed in OAR 340-245-0300 for changes over the intervening three years. DEQ will propose to:~~

**Commented [GJ53]:** The majority of this rule was migrated to 247.

(A) Revise Toxicity Reference Values and associated Risk Based Concentrations for toxic air contaminants listed in OAR 340-245-8030 Table 3 and OAR 340-245-8040 Table 4, as applicable, if Toxicity Reference Values have been revised by authoritative sources listed in OAR 340-245-0300;

(B) Add toxic air contaminants to OAR 340-245-8030 Table 3 and 340-245-8040 Table 4, as applicable, if Toxicity Reference Values have been generated by authoritative sources listed in OAR 340-245-0300 for toxic air contaminants on the Toxic Air Contaminant Reporting List in OAR 340-245-8020 Table 2 from which RBCs can be set; or

(C) Remove or revise toxic air contaminants from OAR 340-245-8030 Table 3 and 340-245-8040 Table 4, as applicable, if some or all authoritative sources listed in OAR 340-245-0300 have rescinded Toxicity Reference Values for that toxic air contaminant without providing a replacement;

(e) DEQ will propose updates to OAR 340-245-8030 Table 3 and 340-245-8040 Table 4, as applicable, through the [a public](#) rulemaking process;

(4) Interested parties may submit petitions to DEQ to update the lists of regulated toxic air contaminants to add or remove toxic air contaminants from OAR 340-245-8020 Table 2, revise a TRV in OAR 340-245-98030 Table 3, or revise an RBC in OAR 340-245-8040 Table 4.

(a) All petitions must be made in writing and must be received by DEQ at least 18 months before the applicable triennial review described in section (2) or (3);

(b) A request to add a toxic air contaminant to the Toxic Air Contaminant Reporting List in OAR 340-0245-8020 Table 2 must include evidence that:

(A) The chemical is emitted in the state of Oregon at a rate of at least 1 pound per year; and

(B) The chemical is toxic;

(c) A request to remove a toxic air contaminant from the Toxic Air Contaminant Reporting List in OAR 340-245-8020 Table 2, the TRV list in OAR 340-245-8030 Table 3, or the RBC list in OAR 340-245-8040 Table 4 must demonstrate that all authoritative sources listed in OAR 340-245-0300 either do not have or have rescinded Toxicity Reference Values for that toxic air contaminant without providing a replacement;

(d)(A) A request to revise a Toxicity Reference Value in OAR 340-245-8030 Table 3 or an RBC in OAR 340-245-8040 Table 4 must include either:

(i) Inhalation Toxicity Reference Values established by a federal agency or by another state; or

(ii) Publicly available and peer-reviewed [to revise, add, or remove risk-based concentrations for toxic air contaminants whenever changes are proposed to their](#) toxicity information for the toxic air contaminant that demonstrates a quantitative dose response relationship in human or animal studies from which Toxicity Reference Values could be calculated; [reference values in OAR 340-247-80120 Table 2.](#)

(B) If the request applies to a toxic air contaminant for which toxicity information is available from one or more of the authoritative sources listed in OAR 340-245-0300, then only petitions to select a Toxicity Reference Value from one of those authoritative sources will be considered; and

(C) If a toxic air contaminant being requested for review has no available toxicity information as described in paragraph (A) and is emitted at a rate of at least one pound per year in the state of Oregon, then DEQ will put the toxic air contaminant on a formal "Wait List", to be held there until toxicity information for that toxic air contaminant becomes available;

(e) If DEQ, after consultation with OHA, determines that revisions are warranted as a result of a petition [b\) As needed](#), DEQ will propose revisions to TRVs or RBCs or additions or removals of toxic air contaminants to the Toxic Air Contaminant Reporting List in OAR 340-245-8020 Table 2, the TRV list in OAR 340-245-8030 Table 3 or the RBC list in OAR 340-245-8040 Table 4, through the [a public](#) rulemaking process; and

(f) If DEQ receives a request [to revise a TRV or RBC or add or remove a toxic air contaminant from the Toxic Air Contaminant Reporting List in OAR 340-245-8020 Table 2, the TRV list in OAR 340-245-8030 Table 3 or the RBC list in OAR 340-245-8040 Table 4](#) and the request is received less than 18 months before the applicable triennial review described in section (2) or (3), the request will be reviewed during the triennial review in section (3); [risk-based concentrations if new information indicates the need](#)

[to adjust exposure factors or other adjustment factors for individual toxic air contaminants or groups of toxic air contaminants.](#)

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, [468A.135](#), [ORS 468A.337](#) & [Or Laws 2018, ch. 102, § 3](#)

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, [ORS 468A.335](#), [ORS 468A.337](#) & [Or Laws 2018, ch. 102, §§ 2 and 3](#)

**History:**

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

**[340-245-0320](#)**

**Standards and Criteria for Noncancer Risk Action Levels for Existing Contamination Sources**

(1) The noncancer Risk Action Levels for existing sources are identified in OAR 340-245-8010, Table 1.

(2) The toxic air contaminants for which an adjusted noncancer Risk Action Level will apply are identified in OAR 340-245-80130, Table 23, and OAR 340-245-80140, Table 42 in the column named “Noncancer TBACT RAL.”

(3) An adjusted Risk Action Level will be applied to existing sources that emit one or more toxic air contaminants identified in OAR 340-245-80130, Table 23, or OAR 340-245-80140, Table 42, with a noncancer TBACT RAL of a Hazard Index of 3. For sources that emit a mixture of toxic air contaminants with noncancer TBACT Risk Action Levels of both a Hazard Index of 3 and a Hazard Index of 5, the Risk Determination Ratio calculation expresses the degree to which the applicable Risk Action Level may be adjusted for each source.

**Statutory/Other Authority:** ORS 468.020 & Or Laws 2018, ch. 102, § 7

**Statutes/Other Implemented:** Or Laws 2018, ch. 102, §7

**History:**

DEQ 8-2020, adopt filed 04/24/2020, effective 04/24/2020

**[340-245-0400](#)**

**Cleaner Air Oregon Fees**

(1) Any owner or operator that has been issued or applies for an Oregon Title V Operating Permit under OAR chapter 340, division 218 must submit the annual CAO base fees to DEQ as specified in OAR 340-220-0050(4).

(2) Any owner or operator that has been issued or applies for a Basic, General, Simple or Standard Air Contaminant Discharge Permit under OAR chapter 340, division 216 must submit the annual CAO base fee to DEQ as specified in OAR 340-216-8020 Table 2 Part 3.

(3) When notified in writing by DEQ, the owner or operator of an existing source that must perform a risk assessment is required to pay the applicable existing source call-in fee in OAR 340-216-8030 Table 3 within 30 days of receiving DEQ notification.

(4) Owners or operators of new or reconstructed sources must pay the applicable new source consulting fee and the applicable specific activity fees in OAR 340-216-8030 Table 3 with the permit application.

(5) Any owner or operator required to apply for a Toxic Air Contaminant Permit Addendum must also submit the applicable Cleaner Air Oregon Specific Activity Fees specified in OAR 340-216-8030 Table 3 to DEQ in accordance with OAR 340-245-0030.

(a) The fees in OAR 340-216-8030 Table 3 are additive in most cases;

(b) A TBACT/TLAER Review fee will be due to DEQ per TEU. When reviewing multiple similar TEUs, DEQ may elect to waive additional TEU review fees for multiple similar TEU reviews if the TEUs have similar emissions and emission rates;

(c) If one TEU requires two different [air](#) pollution control devices because it emits different types of toxic air contaminants (e.g., particulate matter and volatile organic compounds), then two TBACT/TLAER Review fees will be due and payable to DEQ;

(d) The individual TEU fees can be additive or charged individually, depending on the situation. If an owner or operator is constructing or modifying multiple, identical TEUs, then one TEU Risk Assessment fee may be charged. If the TEUs were not identical, then multiple TEU Risk Assessment fees will be due and payable to DEQ;

(e) A community engagement fee of high, medium, or low for each meeting, will be due to DEQ based on DEQ's determination of the complexity and nature of the needed outreach and engagement activities; and

(f) A source test fee is required when an owner or operator submits a source test report for DEQ review under this division.

(A) The complex source test review fee is for multiple TEUs and multiple toxic air contaminant test methods;

(B) The moderate source test review fee is for a single TEU and multiple toxic air contaminant test methods; and

(C) The simple source test review fee is for a single TEU and a single toxic air contaminant test method.

**Statutory/Other Authority:** ORS 468.020, 468.065, [468A.135](#), 468A.315 & Or Laws 2018, ch. 102, § 13

**Statutes/Other Implemented:** ORS 468.065, 468A.010, 468A.015, 468A.025, 468A.035, 468A.040, 468A.050, 468A.070, 468A.155, 468A.315 & Or Laws 2018, ch. 102, §§ 13 and 14

**History:**

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

[340-245-8010](#)

**Table 1 - Risk Action Levels**

Table 1 - Risk Action Levels

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

**Statutory/Other Authority:** ORS 468.020, ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, [468A.135](#), 468A.155 & Or Laws 2018, ch. 102, § 7

**Statutes/Other Implemented:** ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035 & Or Laws 2018, ch. 102, § 7

**History:**

DEQ 8-2020, amend filed 04/24/2020, effective 04/24/2020

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

**340-245-8020**

**Table 2 - Toxic Air Contaminant Reporting List**

Table 2 - Toxic Air Contaminant Reporting List

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

Commented [GJ54]: Table moved to division 247.

**340-245-8030**

**Table 3 - Toxicity Reference Values**

Table 3 - Toxicity Reference Values

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

Commented [GJ55]: Table moved to division 247.

**Statutory/Other Authority:** ORS 468.020, ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155 & Or Laws 2018, ch. 102, § 7

**Statutes/Other Implemented:** ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035 & Or Laws 2018, ch. 102, § 7

**History:**

DEQ 8-2020, amend filed 04/24/2020, effective 04/24/2020

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

**340-245-80140**

**Table 24 - Risk-Based Concentrations**

Table 24 - Risk-Based Concentrations

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

**Statutory/Other Authority:** ORS 468.020, ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.135, 468A.155 & Or Laws 2018, ch. 102, § 7

**Statutes/Other Implemented:** ORS 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035 & Or Laws 2018, ch. 102, § 7

**History:**

DEQ 15-2020, minor correction filed 05/12/2020, effective 05/12/2020

DEQ 8-2020, amend filed 04/24/2020, effective 04/24/2020

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

**340-245-80150**

**Table 35 - Level 1 Risk Assessment ~~Foot~~Dispersion Factors**

Table 35 - Level 1 Risk Assessment ~~Foot~~Dispersion Factors

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

**Statutory/Other Authority:** ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.135 & 468A.155

**Statutes/Other Implemented:** 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015 & 468A.035

**History:**

DEQ 3-2019, minor correction filed 01/23/2019, effective 01/23/2019

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

# Other Air Quality Divisions – Draft Rules

## Division 200 GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

### 340-200-0020

#### General Air Quality Definitions

(134) "Regulated air pollutant" or "Regulated pollutant":

(a) Except as provided in subsections (b), (c) and (d), means:

(A) Nitrogen oxides or any VOCs;

(B) Any pollutant for which an ambient air quality standard has been promulgated, including any precursors to such pollutants;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the FCAA;

(D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the FCAA;

(E) Any pollutant listed under OAR 340-244-0040 or 40 C.F.R. 68.130;

(F) Greenhouse gases; and

(G) Toxic Air Contaminants.

(b) As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, regulated pollutant means particulate matter, volatile organic compounds, oxides of nitrogen and sulfur dioxide.

(c) As used in OAR 340 division 222, Plant Site Emission Limits and division 224, New Source Review, regulated pollutant does not include any pollutant listed in OAR 340 divisions 244 and 246.

(d) As used in OAR 340 division 202 Ambient Air Quality Standards And PSD Increments through ~~division 210 Stationary Source Notification Requirements~~; ~~division 208~~ [Visible Emissions and Nuisance Requirements](#); division 215 Greenhouse Reporting Requirements; division 222 Stationary Source Plant Site Emission Limits through division 244 Oregon Federal Hazardous Air Pollutant Program; and division 248 Asbestos Requirements through division 268 Emission Reduction Credits; regulated pollutant means only the air contaminants listed under paragraphs (a)(A) through (F).

**Commented [GJ56]:** This change allows toxic air contaminants to be considered a regulated pollutant under divisions 209 210 – i.e., Public Participation and Stationary Source Notification Requirements, respectively. The CAO rules already refer to these divisions and so this change was made for consistency.

## Division 216 AIR CONTAMINANT DISCHARGE PERMITS

### 340-216-0090

#### Sources Subject to ACDPs and Fees

(1) All air contaminant discharge sources listed in OAR 340-216-8010 must obtain a permit from DEQ and are subject to fees in OAR 340-216-8020.

(2) An owner or operator of a source that is required to demonstrate compliance with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-80150 must pay the fees specified in OAR 340-216-8030.

**Division 218**  
**OREGON TITLE V OPERATING PERMITS**

**340-218-0020**

**Applicability**

(1) Except as provided in section (4), this division applies to the following sources:

- (a) Any major source;
  - (b) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the FCAA;
  - (c) Any source, including an area source, subject to a standard or other requirement under section 112 of the FCAA, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the FCAA;
  - (d) Any affected source under Title IV; and
  - (e) Any source in a source category designated by the EQC under this rule.
- (2) The owner or operator of a source with an Oregon Title V Operating Permit whose potential to emit later falls below the emission level that causes it to be a major source, and which is not otherwise required to have an Oregon Title V Operating Permit, may submit a request for revocation of the Oregon Title V Operating Permit. Granting of the request for revocation does not relieve the source from compliance with all applicable requirements or ACDP requirements.

(3) Synthetic minor sources.

- (a) A source which would otherwise be a major source subject to this division may choose to become a synthetic minor source by limiting its emissions below the emission level that causes it to be a major source through limits contained in an ACDP issued by DEQ under 340 division 216.
- (b) The reporting and monitoring requirements of the emission limiting conditions contained in the ACDPs of synthetic minor sources issued by DEQ under OAR 340-216 must meet the requirements of OAR 340-212-0010 through 340-212-0150 and division 214.
- (c) Synthetic minor sources who request to increase their potential to emit above the major source emission rate thresholds will become subject to this division and must submit a permit application under OAR 340-218-0040 and obtain an Oregon Title V Operating Permit before increasing emissions above the major source emission rate thresholds.
- (d) Synthetic minor sources that exceed the limitations on potential to emit are in violation of OAR 340-218-0020(1)(a).

(4) Source category exemptions.

- (a) All sources listed in 340-218-0020(1) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit under section 129(e) of the FCAA are not required to obtain a Title V permit, except non-major sources subject to a standard under section 111 or section 112 of the FCAA promulgated after July 21, 1992 are required to obtain a Title V permit unless specifically exempted from the requirement to obtain a Title V permit in section 111 or 112 standards.
- (b) The following source categories are exempted from the obligation to obtain an Oregon Title V Operating Permit:

(A) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 C.F.R. part 60, subpart AAA — Standards of Performance for New Residential Wood Heaters; and

(B) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 C.F.R. part 61, subpart M — National Emission Standard for Hazardous Air Pollutants for Asbestos, section 61.145, Standard for Demolition and Renovation.

(c) Any source listed in OAR 340-218-0020(1) exempt from the requirement to obtain a permit under this rule may opt to apply for an Oregon Title V Operating Permit.

(5) Sources subject to this division may also be subject to OAR 340-245-0005 through 340-245-80510.

**340-218-0110**

**Permit Shield**

(1) Except as provided in this division, DEQ must expressly include in an Oregon Title V Operating Permit a provision stating that compliance with the conditions of the permit will be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(a) Such applicable requirements are included and are specifically identified in the permit; or  
(b) DEQ, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(2) An Oregon Title V Operating Permit that does not expressly state that a permit shield exists will be presumed not to provide such a shield.

(3) Changes made to a permit using OAR 340-218-0150(1)(h) and 340-218-0180 will be shielded.

(4) Nothing in this rule or in any Oregon Title V Operating Permit may alter or affect the following:

(a) The provisions of ORS 468.115 (enforcement in cases of emergency) and ORS 468.035;  
(b) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;  
(c) The applicable requirements of the national acid rain program, consistent with section 408(a) of the FCAA; or  
(d) The ability of DEQ to obtain information from a source under ORS 468.095 (investigatory authority, access to records).

(5) The permit shield does not apply to conditions and requirements included in a Toxic Air Contaminant Permit Addendum or included in an Oregon Title V Operating Permit under OAR 340-245-0005 through 340-245-80150.