

## Division 245

### CLEANER AIR OREGON

#### 340-245-0005

#### Purpose and Overview

(1) The purpose of Oregon's risk-based air toxics permitting program, known as Cleaner Air Oregon, is to:

(a) Prioritize and protect the health and well-being of all Oregonians;

(b) Analyze public health risk from air toxics 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 approach to develop a consistent and transparent process for communicating and addressing the risk from industrial and commercial emissions of air toxics, providing regulatory predictability to businesses and the communities they are a part of; and

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

(2) The long-term goal of Cleaner Air Oregon is that the risk from all existing facilities be below 100 in 1 million and hazard index of 3 by the year 2030.

(3) This program supplements requirements in division 244, Oregon Federal Hazardous Air Pollutant Program, and division 246, Oregon State Air Toxics Program. This program includes four levels of risk assessment that allow sources to use the least complex level of assessment possible to demonstrate compliance, and applies to whole facilities.

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

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

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

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

- (a) OAR 340-245-0010, Applicability and Jurisdiction, through OAR 340-245-0022, Abbreviations and Acronyms, describes which sources the risk-based air toxics permitting program applies to and specifies definitions to be used in the program.
- (b) OAR 340-245-0030, Affected Sources and Requirements, specifies which sources are subject to the rules in this division, and which rules they must follow when making changes to their facilities. From this rule, sources are referred to OAR 340-245-0070, New or Modified Toxic Emissions Unit (TEU) Requirements, or OAR 340-245-0080, Source Risk Assessment, for the specific requirements they must meet.
- (c) OAR 340-245-0040, Implementation, is the rule that explains how DEQ will begin implementing the Cleaner Air Oregon program. DEQ will apply the program first to Tier 1 sources and will report to EQC annually on the progress and results of implementing Tier 1. Implementation of Tier 1 will continue for five years or more; at the end of that time DEQ will continue to implement the program by applying it to Tier 2 sources.
- (d) OAR 340-245-0050, Submittal Deadlines, provides the deadlines by which sources must submit Risk Assessment compliance information; sources are allowed more time to submit the more complex assessments.
- (e) OAR 340-245-0060, Exempt TEUs and TEU Designation, contains the criteria for a Toxic Emission Unit to be designated exempt because it poses potentially very low risk. This rule also explains how TEUs should be designated in permit attachments to ensure compliance with all requirements.
- (f) OAR 340-245-0070, New and Modified TEU Requirements, includes the requirements for approval of new or modified Toxics Emissions Units, including criteria for determining whether a TEU is exempt or de minimis.
- (g) OAR 340-245-0080, Source Risk Assessment, includes requirements and procedures for the four levels of risk assessment to determine whether an entire source is in compliance, or if it must have risk reduction requirements placed in its permit. The first level of risk assessment is relatively simple but is also likely to overestimate risk. As the levels progress from level two to four, the assessments become more complex but also provide increasingly more site-specific and refined estimates of risk.
- (h) OAR 340-245-0090, Area Multi-Source Risk Determination, describes how DEQ will assess area risk from multiple sources to determine whether an area will be designated as a Multi-Source Risk Area.
- (i) OAR 340-245-0100, Alternate Noncancer Risk Action Levels, allows DEQ to establish Alternate Noncancer Risk Action Levels and specifies the criteria that DEQ must consider. Alternate Noncancer Risk Action Levels reflect the fact that there is variability around the severity of health effects and magnitude of uncertainty reflected in noncancer Risk-Based Concentrations for different air toxics.

- (j) OAR 340-245-0200, Modeling Requirements, contains air quality modeling requirements for owners or operators of sources that are required to perform modeling to assess risk.
- (k) OAR 340-245-0210, Comprehensive Health Risk Assessment Procedure, contains the requirements that an owner or operator must use to perform the most complex risk assessment.
- (l) OAR 340-245-0220, Risk Reduction Plan and TBACT Plan Requirements, specifies how an owner or operator must develop a plan to reduce risk if the source risk exceeds the applicable Source Risk Action Level. Risk can be reduced using a variety of methods as long as they are enforceable as permit conditions and achieve the required level of risk reduction. This rule also specifies public engagement procedures that an owner or operator must follow when a Risk Reduction Plan or TBACT Plan is required.
- (m) OAR 340-245-0230, Conditional Risk Levels, provides for setting a source-specific risk level if an owner or operator has done everything possible to reduce risk and still cannot meet the applicable Source Risk Action Level. When a Conditional Risk Level is granted, the owner or operator must periodically review emission reduction methods to see if new methods become available.
- (n) OAR 340-245-0240, Cleaner Air Oregon Monitoring, allows an owner or operator to perform ambient monitoring to determine actual concentrations of air toxics in the ambient air around a source. Cleaner Air Oregon monitoring cannot be done in lieu of (i), (j) or (k) above.
- (o) OAR 340-245-0250, Community Engagement Plan and Notice Requirements, contains procedures that owners or operators must use when the risk from their source is greater than the applicable Source Risk Action Level and they propose a Risk Reduction Plan or Conditional Risk Level.
- (p) OAR 340-245-0300, Air Toxics Permit Attachment Procedures, includes the procedural requirements for obtaining a permit attachment. The Air Toxics Permit Attachment will be attached to the source's Air Contaminant Discharge Permits or Title V Operating Permits.
- (q) OAR 340-245-0310, Source Risk Limits, explains how risk limits will be set in Air Toxics Permit Attachments, including in areas where there is excess risk from multiple sources.
- (r) OAR 340-245-0320, Calculations, explains how certain calculations required in the rules must be performed. This rule also explains how calculations should be rounded off to evaluate compliance with Risk Action Levels.
- (s) OAR 340-245-0330, TBACT and Other Emission Reduction Methods, explains how a Toxics Best Available Control Technology analysis must be performed.
- (t) OAR 340-245-0340, Emissions Inventory and Modeling Information, authorizes DEQ to require a source or sources to submit an inventory of all of their air toxics emissions.
- (u) OAR 340-245-0400 through 340-245-0420, Risk-Based Concentration Hierarchy, Calculation of Risk-Based Concentrations and Process for Updating Lists of Regulated Air

Toxics and Their Risk-Based Concentrations, describe how DEQ and OHA determined the Risk-Based Concentrations and how the RBCs may be updated.

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

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

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

### **340-245-0010**

#### **Applicability and Jurisdiction**

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

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

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

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

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

(a) OAR 340 division 209 Public Participation;

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

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

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

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

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

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

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

## (6) Disclaimer

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

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

## **340-245-0020**

### **Definitions**

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

(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.

(2) “Acute” means evaluated over a 24-hour period.

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

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

(5) “Air Toxics” means the air pollutants that have been determined by the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment and are listed in OAR 340-245-8020 Table 2.

(6) “Air Toxics Permit Attachment” means written authorization issued under this division that contains requirements based on the Cleaner Air Oregon rules for sources that emit air toxics and is attached to an Air Contaminant Discharge Permit or a Title V Operating Permit.

(7) “Alternate Noncancer Risk Action Level” means a source- or area-specific noncancer Risk Action Level that may be granted under OAR 340-245-0100.

(8) “Area of impact” means:

- (a) For excess cancer risk, the area of impact is the geographic area where risk is determined to be above the applicable Source Risk Action Level, and is determined by AERMOD or other comparable complex modeling approved by DEQ.
- (b) For noncancer health risk, the area of impact is the geographic area where hazard index values is determined to be above the applicable acute and chronic Risk Action Levels, as appropriate, and is determined by AERMOD or other comparable complex modeling approved by DEQ.
- (9) “Chronic” means evaluated over a one-year period or more.
- (10) “Cleaner Air Oregon rules” means OAR 340-245-0005 through 340-245-8060.
- (11) “Construction permit” means a Construction Air Contaminant Discharge Permit under OAR chapter 340, division 216.
- (12) “De minimis source” means a source whose excess cancer, chronic noncancer risk and acute noncancer risk estimates are each less than or equal to the Source De Minimis Level in OAR 340-245-8010 Table 1.
- (13) “De minimis TEU” means a TEU whose excess cancer, chronic noncancer risk and acute noncancer risk estimates are each less than or equal to the TEU De Minimis Levels in OAR 340-245-8010 Table 1.
- (14) “DEQ notice date” means the date that DEQ sends a notice to an owner or operator that a Source Risk Assessment is required.
- (15) “Environmental Justice” has the meaning given by Oregon’s Environmental Justice Task Force, which defines Environmental Justice as equal protection from environmental and health hazards, and meaningful public participation in decisions that affect the environment in which people live, work, learn, practice spirituality, and play. Environmental Justice communities include minority and low-income communities, tribal communities, and other communities traditionally underrepresented in public process. Underrepresented communities may include those with significant populations of youth, the elderly, or those with physical or mental disabilities.
- (16) “Excess cancer risk” means the probability of developing cancer from exposure to air toxics emissions, over and above the background rate of cancer.
- (17) “Exempt source” means a source at which all TEUs are exempt TEUs.
- (18) “Exempt TEU” means a TEU that is exempt from the requirements of this division under OAR 340-245-0060(1).
- (19) “Existing source” means a source that:
- (a) Began construction before <enter effective date of rules>; or

(b) Submitted all necessary applications to DEQ under OAR 340 divisions 210 or 216 before <enter effective date of rules>, and all such applications were deemed complete by DEQ.

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

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

(a) Chronic exposure locations, which include:

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

(i) Residential exposure location is a place outside the boundary of a source at which a person or persons may reasonably be present for most hours of each day over a period of many years, including individual houses and areas that are zoned, or documented as planned to be zoned, to allow residential use either exclusively or in conjunction with other uses; and

(ii) Nonresidential exposure location is a place outside the boundary of a source at which a person or persons may reasonably be present for a few hours several days per week, possibly over a period of several years, and that is zoned, or documented as planned to be zoned, for uses that do not allow residential use;

(b) Acute exposure locations, which include:

(A) Chronic exposure locations; and

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

(22) “F1 Air Toxics Permit Attachment” means a permit attachment that is issued to a source whose risk at pre-existing PTE does not exceed the applicable Source Risk Action Level.

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

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

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

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

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

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

(29) “Inhalation Unit Risk” means the upper-bound excess lifetime cancer risk estimated to result from continuous exposure to an air toxic at a concentration of  $1 \mu\text{g}/\text{m}^3$  in air. The interpretation of inhalation unit risk would be as follows: if unit risk =  $2 \times 10^{-6}$  per  $\mu\text{g}/\text{m}^3$ , 2 excess cancer cases (upper bound estimate) are expected to develop per 1,000,000 people if exposed daily for 70 years to  $1 \mu\text{g}$  of the air toxic per  $\text{m}^3$  of air.

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

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

(32) “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.

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

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

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

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

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

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

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

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

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

(34) “New source” means a source that is not an existing source.

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

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

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

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

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

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

(41) “Pre-existing PTE” means the potential to emit air toxics from a source or TEU as of the date a Risk Assessment or emission inventory is submitted to DEQ, and may take into consideration any enforceable permit conditions or limits that serve to limit air toxics PTE that are in effect as of the date of submittal.

(42) “Reconstruction” means the replacement of components of an existing source to such an extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new source.

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

(44) “Risk Action Level” is the level of risk at which the owner or operator of a TEU, source, or multiple sources will be required to take specific action depending on the level of risk posed to the area of impact as described in these rules. Risk Action Levels are listed in OAR 340-245-8010 Table 1 for a source or multiple sources, as indicated by the context in which the term is used. Risk Action Levels may include Alternate Noncancer Risk Action Levels under OAR 340-245-0100.

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

(46) “Risk Assessment Notification” is a form used to request approval of a de minimis source determination under a Level 1 through 4 Risk Assessment in OAR 340-245-0080 or an exempt source.

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

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

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

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

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

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

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

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

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

(54) “Toxics Best Available Control Technology” or “TBACT” means an emission limit or emission control measure or measures to limit or reduce air toxics identified in, or determined using the procedures in, OAR 340-245-0330(3).

(55) “Toxics emissions unit” or “TEU” means any part or activity of a source that emits or has the potential to emit any air toxics. A toxics emissions unit does not necessarily emit air toxics, and includes a part or activity of a source that is an exempt TEU.

(56) “Uncertainty factor” means a value of 1, 3, or 10 that represents uncertainty inherent in extrapolating from available toxicity data to develop a Toxicity Reference Value. A total uncertainty factor is the product of all the relevant individual uncertainty factors for a specific air toxic. Individual uncertainty factors account for:

- (a) Protection of sensitive members of a general population;
- (b) Interspecies variability between humans and other mammals when using the results of an animal toxicity study to protect humans;
- (c) Differences in duration of the test study when using toxicity data from a subchronic study to protect chronic exposure; and
- (d) Uncertainty associated with toxicity data based on lowest observed adverse effect levels rather than no observed adverse effect levels.

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

## **340-245-0022**

### **Abbreviations and Acronyms**

- (1) “ANRAL” means Alternate Noncancer Risk Action Level.
- (2) “ELAF” means early-life adjustment factor.
- (3) “HI” means hazard index.
- (4) “IUR” means inhalation unit risk.
- (5) “km” means kilometer.
- (6) “MPAF” means multipathway adjustment factor.
- (7) “NRAF” means nonresidential adjustment factor.
- (8) “OHA” means Oregon Health Authority.
- (9) “RBC” means Risk-Based Concentration.
- (10) “RfC” means reference concentration.
- (11) “TBACT” means Toxics Best Available Control Technology.
- (12) “TEU” means toxics emissions unit.
- (13) “TRV” means toxicity reference value.
- (14) “µg/m<sup>3</sup>” means micrograms per cubic meter.

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

## **340-245-0030**

### **Affected Sources and Requirements**

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

(2) New or modified TEU.

(a) The owner or operator of a source that has previously submitted an Air Toxics Permit Attachment application or Risk Assessment Notification required under OAR 340-245-0080, and that proposes to construct a new or modified TEU, must comply with OAR 340-245-0070 before beginning construction of the new or modified TEU, unless the new or modified TEU is not approvable under section (7).

(b) The owner or operator of a source that has not previously submitted an Air Toxics Permit Attachment application or Risk Assessment Notification required under OAR 340-245-0080, and that proposes to construct a new or modified TEU, is not required to obtain approval of a new or modified TEU before beginning construction under the Cleaner Air Oregon rules, but must comply with the requirements of OAR chapter 340, division 210.

(3) Existing source. When notified in writing by DEQ, the owner or operator of an existing source that is required to obtain a Simple, Standard or Construction Air Contaminant Discharge Permit or Title V permit must comply with OAR 340-245-0080.

(4) New source. The owner or operator of a proposed new source that is required to obtain a Simple, Standard or Construction Air Contaminant Discharge Permit must comply with OAR 340-245-0080 for the entire source before beginning construction, unless the proposed new source is not approvable under section (8).

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

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

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

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

(B) The location of the existing source;

- (C) A brief description of the existing source and the components which are to be replaced;
  - (D) A description of the existing air pollution control equipment and the proposed air pollution control equipment;
  - (E) An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new source;
  - (F) The estimated life of the existing source after the replacements; and
  - (G) A discussion of any economic or technical limitations the source may have in complying with the requirements of OAR 340-245-0080 after the proposed replacements.
- (b) DEQ will determine, within 90 days of the receipt of the notice required by subsection (a) and any additional information DEQ may reasonably require, whether the proposed replacement constitutes reconstruction.
- (c) DEQ's determination under subsection (b) will be based on:
- (A) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new source;
  - (B) The estimated life of the source after the replacements compared to the life of a comparable entirely new source;
  - (C) The extent to which the components being replaced cause or contribute to the emissions from the source; and
  - (D) Any economic or technical limitations on compliance with OAR 340-245-0080 which are inherent in the proposed replacements.
- (7) TEUs that DEQ will not approve. Except for de minimis and exempt TEUs, DEQ will not approve a new or modified TEU if:
- (a) The TEU does not comply with OAR 340-245-0070;
  - (b) The source does not comply with OAR 340-245-0080, if required; or
  - (c) The emissions from the TEU would increase risk by more than the Source De Minimis Level in OAR 340-245-8010 Table 1, and the source either:
    - (A) Is located in or within 1.5 kilometers of a designated Multi-Source Risk Area where the Area Multi-Source Risk Action Level in OAR 340-245-8010 Table 1 is currently not exceeded, and the emissions from the TEU would increase risk at any exposure location in the Multi-Source Risk Area to more than the Area Multi-Source Risk Action Level; or
    - (B) Is located in or within 1.5 kilometers of a designated Multi-Source Risk Area where the Area Multi-Source Risk Action Level in OAR 340-245-8010 Table 1 is currently exceeded and the

emissions from the TEU would increase risk at any exposure location in the Multi-Source Risk Area.

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

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

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

(c) A proposed new source either:

(A) Is located in or within 1.5 kilometers of a designated Multi-Source Risk Area where the Area Multi-Source Risk Action Level in OAR 340-245-8010 Table 1 is currently not exceeded, and the emissions from the proposed new source would increase risk at any exposure location in the Multi-Source Risk Area to more than the Area Multi-Source Risk Action Level; or

(B) Is located in or within 1.5 kilometers of a designated Multi-Source Risk Area where the Area Multi-Source Risk Action Level in OAR 340-245-8010 Table 1 is currently exceeded, and the emissions from the proposed new source would increase risk at any exposure location in the Multi-Source Risk Area; or

(d) DEQ determines that the emissions from an existing source would result in risk at any exposure location that will exceed the Existing Source Permit Denial Risk Action Levels in OAR 340-245-8010 Table 1.

(9) Updated or corrected Risk Assessment.

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

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

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

(C) The zoning in the area has changed in a way that could materially change the results of the Risk Assessment.

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

operator. Examples of good cause include the inability of the owner or operator of the source to meet the allowable time despite making a good-faith effort to do so. It is the owner's or operator's burden to demonstrate to DEQ's satisfaction that good causes exist and good-faith efforts were made by the owner or operator of the source.

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

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

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

### **340-245-0040**

#### **Implementation**

(1) Tier 1.

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

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

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

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

(i) Sources that have Title V permits;

(ii) Sources that have Standard and Simple Air Contaminant Discharge Permits; and

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

(C) Initial ranked list. Except as provided in subsection (b), for the purpose of determining which permitted existing sources will be notified that they must conduct an initial risk assessment under

subsection (a), DEQ must rank each permitted existing source, list the permitted existing sources from highest score to lowest score, and then must notify sources starting with the highest ranked source and proceeding in rank order down the list. DEQ must develop the ranked list of permitted existing sources as follows:

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

(ii) For each source, DEQ must calculate a score which will determine the rank of the source in the list. DEQ must take into consideration the percentile ranking of risk, as calculated using the Level 1 Risk Assessment Tool described in OAR 340-245-0320(1), and demographic statistics that include the percentile ranking of the percent of low income residents, the percent of minority residents, the percent of residents under 5 years old, and the total number of residents within a one kilometer radius of the source. Prior to being used in the ranking formula, all of the demographic statistics for each facility would be converted to a percentile relative to the demographics statistics for all other facilities being considered in the ranking.

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

Equation 1:

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

Where:

Risk means the percentile ranking of the risk score calculated in Equation 2

Low income means the percentile ranking of the percent of low income residents

Minority means the percentile ranking of the percent of minority residents

Residents < 5 means the percentile ranking of the percent of residents under 5 years old

Population means the percentile ranking of the total number of residents

Equation 2:

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

Where:

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

*DF* means dispersion factor

*RBC* means the Risk-Based Concentration

*Emissions* means the actual emissions of air toxics from a source reported to DEQ

Subscripts

*a* means annual

*d* means daily

*x* refers to each air toxic emitted; and

(iv) A source may be added to the Initial Ranked List under section (4).

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

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

(d) From <effective date of the rules> through <effective date of the rules + 5 years>, DEQ may evaluate no more than one area to potentially be designated as a Multi-Source Risk Area under OAR 340-245-0090 and will notify all existing permitted sources in the area that they must conduct a risk assessment under OAR 340-245-0030(3).

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

(B) For the purpose of determining the area to be evaluated under OAR 340-245-0090, DEQ will identify areas in the state where multiple sources are located within close proximity to one another, and will rank the areas and conduct the Multi-Source Risk Area evaluation on the highest ranked area. DEQ must rank the areas taking into consideration the ranking of the individual sources under subsection (a).

(e) DEQ must report to the EQC annually, at approximately 12 month intervals, for the first five years after <effective date of the rules> with an evaluation of the progress and results of implementing the Cleaner Air Oregon rules. The evaluation should include, but is not limited to the following:

(A) The number of risk assessments performed and the results of those assessments, including:

(i) The number of sources whose risk is below Source Risk Action Levels; and

(ii) The number of sources whose risk is above Source Risk Action Levels, the actions taken, such as requesting a Risk Reduction Plan or Conditional Risk Level, and the risk reductions achieved;

(B) The number of sources that performed Risk Assessments prior to being notified by DEQ that they must perform a Risk Assessment;

(C) To the extent possible, the number of sources that reduced risk prior to being notified by DEQ to conduct a Source Risk Assessment; and

(D) Progress on the first Area Multi-Source Risk evaluation.

(2) Tier 2.

(a) On and after <effective date of the rules + 5 years> DEQ may fully implement the Cleaner Air Oregon rules and the limitations to notify no more than 80 individual permitted existing sources in subsection (1)(a) and to evaluate no more than one area for potential designation as a Multi-Source Risk Area in subsection (1)(d) no longer apply.

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

(c)(A) DEQ may evaluate additional areas for potential designation as Multi-Source Risk Areas under OAR 340-245-0090 and will notify all existing permitted sources in the evaluation areas that they must conduct a risk assessment under OAR 340-245-0030(3). DEQ may also notify and require that such risk assessments be conducted by sources that have any ranking or are unranked under subsection (b), and sources that are not required to have an air quality permit.

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

(3) Applications for new sources, and for new and modified TEUs when required by OAR 340-245-0030(2), will be processed on an as received basis without regard to sections (1) or (2).

(4) Voluntary early Risk Assessments.

A voluntary early application for an Air Toxics Permit Attachment from an existing source that voluntarily complies with OAR 340-245-0080 prior to being notified by DEQ under OAR 340-245-0030(3) will be processed as follows:

(a) If the source risk is greater than the Source Risk Action Level in OAR 340-245-8010 Table 1, the application will be processed immediately after those applications that have been submitted as of the date the voluntary early application is received; or

(b) If source risk is less than or equal to the Source Risk Action Level in OAR 340-245-8010 Table 1, the voluntary early application will be processed as soon as staffing resources allow.

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

### **340-245-0050**

#### **Submittal Deadlines**

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

(2) A Level 1 Risk Assessment under OAR 340-245-0080(5) must be submitted to DEQ no later than 30 days after the DEQ notice date.

(3) A Level 2 Source Risk Assessment under OAR 340-245-0080(6) must be submitted to DEQ no later than 60 days after the DEQ notice date.

(4) A Level 3 Source Risk Assessment under OAR 340-245-0080(7) must be submitted to DEQ no later than 180 days after the DEQ notice date.

(5) A Level 4 Source Risk Assessment under OAR 340-245-0080(8) must be submitted to DEQ no later than 270 days after the DEQ notice date.

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

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

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

(9) Upon request by an owner or operator, DEQ may grant up to 120 days additional time to complete any of the above tasks for good cause, such as, but not limited to: the inability of the owner or operator of the source to meet the allowable time despite making a good-faith effort to do so, or the need to conduct source testing to determine or confirm emissions or to make or revise the source's emissions inventory. The owner or operator must demonstrate to DEQ's satisfaction that good cause exists and that the owner or operator made a good-faith effort to meet the deadline.

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

### **340-245-0060**

#### **Exempt TEUs and TEU Designation**

The following provisions apply to this division only.

(1) Exempt TEUs.

A TEU is exempt if:

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

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

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

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

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

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

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

- (c) TEUs may not be designated in such a way as to avoid the requirements of this division;
- (d) Where multiple emissions-producing activities exhaust through a common opening, exhaust stack or emissions control device, each emissions producing activity may be considered a single TEU; and
- (e) TEUs are not required to be the same as the emissions units listed in a source's operating or construction permit, but it is preferable that they be the same.

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

### **340-245-0070**

#### **New or Modified TEU Requirements**

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

(a) The owner or operator must request approval by following one of the procedures in sections (2) through (7). Sections (5) through (7) are not applicable if approval can be obtained under sections (2) through (4).

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

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

(2) Risk reduction.

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

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

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

(C) If the owner or operator has submitted an Air Toxics Permit Attachment application as required under OAR 340-245-0080 but DEQ has not yet issued the Air Toxics Permit

Attachment, the owner or operator must submit a revised Air Toxics Permit Attachment application that describes the new or modified TEU and how it affects the Risk Assessment.

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

(c) If the source has been issued an Air Toxics Permit Attachment, an application to revise the Air Toxics Permit Attachment is not required. DEQ will revise the source's Air Toxics Permit Attachment if necessary the next time the Air Toxics Permit Attachment is opened.

(3) Exempt TEU.

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

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

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

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

(c) If the source has been issued an Air Toxics Permit Attachment, an application to revise the Air Toxics Permit Attachment is not required. DEQ will revise the source's Air Toxics Permit Attachment if necessary the next time the Air Toxics Permit Attachment is opened.

(4) De minimis TEU.

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

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

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

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

(c) If the source has been issued an Air Toxics Permit Attachment, an application to revise the Air Toxics Permit Attachment is not required. DEQ will revise the source's Air Toxics Permit Attachment if necessary the next time the Air Toxics Permit Attachment is opened.

(5) TEU approval for sources that have applied for, but have not yet been issued an Air Toxics Permit Attachment.

(a)(A) For a source that has submitted an Air Toxics Permit Attachment application but DEQ has not yet issued the Air Toxics Permit Attachment, and the owner or operator does not request an increase to any Source Risk Limit requested in the application, the owner or operator may proceed with the construction or modification upon receipt of written approval from DEQ or a new or modified Air Toxics Permit Attachment.

(B) The owner or operator must submit a revised Air Toxics Permit Attachment application that includes the applicable information under section (8).

(C) There is no fee for the revised Air Toxics Permit Attachment application.

(b)(A) For a source that has submitted an Air Toxics Permit Attachment application but DEQ has not yet issued the Air Toxics Permit Attachment, and the owner or operator requests an increase to any Source Risk Limit requested in the application, the owner or operator may proceed with the construction or modification upon issuance of an Air Toxics Permit Attachment.

(B) The owner or operator must submit a revised Air Toxics Permit Attachment application that includes the applicable information under section (8).

(C) The owner or operator must pay the difference in fees if the requested changes result in a higher Air Toxics Permit Attachment fee.

(6) TEU approval for sources that have been issued an Air Toxics Permit Attachment.

(a)(A) For a source that has been issued the Air Toxics Permit Attachment, and no changes to the Air Toxics Permit Attachment are required as a result of the new or modified TEU, the owner or operator may proceed with the construction or modification upon receipt of written approval from DEQ.

(B) The owner or operator must submit a Risk Assessment Notification that includes the applicable information under section (8).

(C) Additional fees are not required.

(b)(A) For a source that has been issued an Air Toxics Permit Attachment, and changes to the Air Toxics Permit Attachment are required as a result of the new or modified TEU, the owner or operator may proceed with the construction or modification upon issuance of a revised Air Toxics Permit Attachment.

(B) The owner or operator must submit an Air Toxics Permit Attachment modification application that includes the applicable information under section (8).

(C) The owner or operator must pay the applicable Air Toxics Permit Attachment modification application fee.

(7) TEU approval for sources that submitted a Risk Assessment Notification.

(a)(A) For a source that was required to submit a Risk Assessment Notification rather than an application for an Air Toxics Permit Attachment, and the owner or operator is not required to apply for an Air Toxics Permit Attachment as a result of the new or modified TEU, the owner or operator may proceed with the construction or modification upon receipt of written approval from DEQ.

(B) The owner or operator must submit a Risk Assessment Notification that includes the applicable information under section (8).

(C) There is no fee for the revised Risk Assessment Notification.

(b)(A) For a source that was required to submit a Risk Assessment Notification rather than an application for an Air Toxics Permit Attachment, and the owner or operator is required to apply for an Air Toxics Permit Attachment as a result of the new or modified TEU, the owner or operator may proceed with the construction or modification upon issuance of an Air Toxics Permit Attachment.

(B) The owner or operator must submit an Air Toxics Permit Attachment application that includes the applicable information under section (8).

(C) The owner or operator must pay the applicable Air Toxics Permit Attachment application fees.

(8) When referred to this section by sections (5) through (7), the owner or operator must submit the following, as appropriate:

(a) If necessary, a new or revised Source Risk Assessment under OAR 340-245-0080(5), (6), or (7).

(b) If required, submit an application for a new or modified Air Toxics Permit Attachment or Risk to DEQ, including the following as appropriate:

(A) A new or revised Risk Assessment, including modeling results if required for the level of Risk Assessment performed;

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

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

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

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

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

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

(c) Any specific activity fees that apply, such as a modeling fee or TBACT review fee.

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

### **340-245-0080**

#### **Source Risk Assessment**

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

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

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

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

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

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

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

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

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

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

(ii) Request a Conditional Risk Level under OAR 340-245-0230 for the Source Risk Action Level in OAR 340-245-8010 Table 1 that the source cannot comply with.

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

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

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

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

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

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

(F) Cleaner Air Oregon Monitoring. The owner or operator of a source may propose to perform ambient monitoring under OAR 340-245-0240 in order to collect information to supplement the Risk Assessment performed under subsection (A).

(i) Cleaner Air Oregon monitoring is supplementary to paragraphs (A) through (E). An owner or operator that elects to perform Cleaner Air Oregon monitoring must proceed with the actions required under paragraph (A) and paragraphs (B) through (E) if required, and may not delay those actions because the owner or operator is performing Cleaner Air Oregon monitoring.

(ii) An owner or operator may perform Cleaner Air Oregon monitoring at any time, subject to the requirements of OAR 340-245-0240.

(iii) An owner or operator that elects to perform Cleaner Air Oregon monitoring before being notified under OAR 340-245-0030(3) that they must comply with this rule, must at a minimum complete the Risk Assessment as required under paragraph (A) when notified under OAR 340-245-0030(3).

(iv) If Cleaner Air Oregon monitoring results are available and approved by DEQ and show lower or equal risk than any risk determined by the Risk Assessment under paragraph (A) before DEQ issues an Air Toxics Permit Attachment, the owner or operator may submit a revised application.

(v) If Cleaner Air Oregon monitoring results are available and approved by DEQ and show lower or equal risk than any risk determined by the Risk Assessment under paragraph (A) after DEQ issues an Air Toxics Permit Attachment, the owner or operator may request a modification of the Air Toxics Permit Attachment.

(vi) If Cleaner Air Oregon monitoring results are available and approved by DEQ and show higher risk than any risk determined by the Risk Assessment under paragraph (A), then compliance with paragraphs (A) through (E) must be based on the higher risk results. If DEQ has issued an Air Toxics Permit Attachment and any risk exceeds a Source Risk Limit, then the owner or operator must request a modification of the Air Toxics Permit Attachment to revise the Source Risk Limit and, if necessary, must also revise the Risk Reduction Plan, Conditional Risk Level, TBACT Plan and Conditional Risk Level or Conditional Risk Level with postponement of risk reductions.

(vii) DEQ will not delay issuance of an Air Toxics Permit Attachment under paragraphs (A) through (E) because the owner or operator has not completed Cleaner Air Oregon monitoring and the associated data analysis.

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

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

following the Level 1 through 4 Risk Assessment procedures in sections (5) through (8). The owner or operator:

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

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

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

(c) Procedure.

(A) The owner or operator must:

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

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

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

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

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

(2) A Risk Assessment must include all TEUs at the source, or for which an application was submitted under OAR chapter 340 division 210 or the Cleaner Air Oregon rules, as of the date that the owner or operator submits the application required under this rule, except as allowed under section (3).

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

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

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

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

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

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

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

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

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

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

(a) The owner or operator must:

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

(B) Submit a Risk Assessment Notification to DEQ.

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

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

(B) Follow the Category I public notice procedure in OAR chapter 340, division 209; and

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

(5) Level 1 Source Risk Assessment.

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

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

(A) This method is applicable to point source emissions in flat terrain only. The method may not be appropriate for sources in complex terrain where topography, within a distance equivalent to ten stack heights, is higher than the stack height of the source. Sources with multiple stacks must model stacks separately, or combine stack emissions into a single modeled stack. Demonstrations using the Level 1 Risk Assessment Tool for sources in complex terrain or with multiple stacks must be approved by DEQ. This method is not appropriate for fugitive emissions, such as might be characterized as a volume or area source, which must use AERSCREEN or AERMOD for their risk analysis.

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

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

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

(B) Upon receipt of a submittal under subsection (A), DEQ will follow the procedure described in OAR 340-245-0080(4)(b).

(c) To demonstrate that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions at pre-existing PTE of the source;

(ii) Submit an F1 Air Toxics Permit Attachment application that demonstrates that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level; and

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

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

(i) Propose to issue or deny an F1 Air Toxics Permit Attachment based on DEQ's assessment of whether the application demonstrates that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level; and

(ii) Determine whether to issue or deny a final F1 Air Toxics Permit Attachment after following the Category II public notice procedure in OAR chapter 340, division 209 for the Air Toxics Permit Attachment.

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

(A) The owner or operator must:

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

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

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

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

(i) Propose to issue or deny an F2 Air Toxics Permit Attachment based on DEQ's assessment of whether the application demonstrates that one or more permit conditions will limit risk to no more than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1; and

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

(6) Level 2 Source Risk Assessment.

The owner or operator must assess air toxics emissions by modeling emissions to determine air concentrations at exposure locations approved by DEQ using AERSCREEN or other screening model approved by DEQ and must either follow the procedures in subsection (a) to demonstrate that the source is a de minimis source, in subsection (b) to demonstrate that the risk from the

source at pre-existing PTE does not exceed the applicable Source Risk Action Level in OAR 340-245-8010 Table 1, or in subsection (c) to request one or more permit conditions to limit risk to no more than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1.

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

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

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

(b) To demonstrate that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions at pre-existing PTE of the source;

(ii) Submit an F1 Air Toxics Permit Attachment application to DEQ that demonstrates that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level; and

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

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

(i) Propose to issue or deny an F1 Air Toxics Permit Attachment based on DEQ's assessment of whether the application demonstrates that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level; and

(ii) Determine whether to issue or deny a final F1 Air Toxics Permit Attachment after following the Category II public notice procedure in OAR chapter 340, division 209 for the Air Toxics Permit Attachment.

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

(A) The owner or operator must:

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

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

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

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

(i) Propose to issue or deny an F2 Air Toxics Permit Attachment based on DEQ's assessment of whether the application demonstrates that one or more permit conditions that will limit risk to no more than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1; and

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

(7) Level 3 Source Risk Assessment.

The owner or operator must assess air toxics emissions by modeling emissions to determine air concentrations at exposure locations approved by DEQ using AERMOD or other complex model approved by DEQ and must either follow the procedures in subsection (a) to demonstrate that the source is a de minimis source, in subsection (b) to demonstrate that the risk from the source at pre-existing PTE does not exceed the applicable Source Risk Action Level in OAR 340-245-8010 Table 1, or in subsection (c) to request one or more permit conditions to limit risk to no more than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1.

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

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

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

(b) To demonstrate that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions at pre-existing PTE of the source;

(ii) Submit an F1 Air Toxics Permit Attachment application that demonstrates that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level;

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

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

(i) Propose to issue or deny an F1 Air Toxics Permit Attachment based on DEQ's assessment of whether the application demonstrates that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level; and

(ii) Determine whether to issue or deny a final F1 Air Toxics Permit Attachment after following the Category III public notice procedure in OAR chapter 340, division 209 for the Air Toxics Permit Attachment.

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

(A) The owner or operator must:

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

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

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

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

(i) Propose to issue or deny an F2 Air Toxics Permit Attachment based on DEQ's assessment of whether the application demonstrates that one or more permit conditions will limit risk to no more than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1; and

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

(8) Level 4 Source Risk Assessment.

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

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

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

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

(b) To demonstrate that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level, the following procedure applies:

(A) The owner or operator must:

(i) Assess air toxics emissions at pre-existing PTE of the source;

(ii) Submit an F1 Air Toxics Permit Attachment application that demonstrates that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level; and

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

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

(i) Propose to issue or deny an F1 Air Toxics Permit Attachment based on DEQ's assessment of whether the application demonstrates that risk at pre-existing PTE does not exceed the applicable Source Risk Action Level; and

(ii) Determine whether to issue or deny a final F1 Air Toxics Permit Attachment after following the Category III public notice procedure in OAR chapter 340, division 209 for the Air Toxics Permit Attachment.

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

(A) The owner or operator must:

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

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

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

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

(i) Propose to issue or deny an F2 Air Toxics Permit Attachment based on DEQ's assessment of whether the application demonstrates that one or more permit conditions that will limit risk to no more than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1; and

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

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

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

### **340-245-0090**

#### **Area Multi-Source Risk Determination**

(1) DEQ may designate Multi-Source Risk Areas.

(a) If DEQ identifies areas under subsection (b) that have risk that exceeds 2/3 of any of the Area Multi-Source Risk Action Levels in OAR 340-245-8010 Table 1, then DEQ may designate such areas as Multi-Source Risk Areas.

(b) DEQ may evaluate areas for potential designation as Multi-Source Risk Areas by:

(A) Identifying an area for evaluation and evaluating the area as follows:

(i) The area must contain a group of sources that have the potential for cumulative concentrations because of their close proximity to one another;

(ii) Identify all sources that are subject to this division within the identified area, including de minimis sources, but excluding exempt sources;

(iii) The evaluation must include all of the sources identified under subparagraph (ii); and

(iv) At DEQ's discretion, DEQ may require the sources identified under subparagraph (ii) to conduct a Risk Assessment under OAR 340-245-0080, or provide all necessary source-specific information that DEQ requires to model the source under section (2);

(v) DEQ will use modeling to determine the location of an area where the risk at exposure locations exceeds 2/3 of any Area Multi-Source Risk Action Levels in OAR 340-245-8010 Table 1; or

(B) Using the results of an individual Source Risk Assessment to determine the location of an area where the risk from the individual source exceeds 2/3 of any of the Area Multi-Source Risk Action Levels in OAR 340-245-8010 Table 1 at any exposure locations. Areas identified under this paragraph may be reevaluated under paragraph (A) and the boundary of the Multi-Source Risk Area may be revised if necessary.

(c) The boundary of a designated Multi-Source Risk Area will be the line of equal concentration that surrounds the exposure locations that are modeled at or above 2/3 of any of the Area Multi-Source Risk Action Levels in OAR 340-245-8010 Table 1.

(d) When DEQ designates an area as Multi-Source Risk Area, DEQ will:

(A) Using modeling and information from individual Source Risk Assessments, identify the Multi-Source Risk Area as the area within the line of equal concentration that surrounds exposure locations where the risk exceeds 2/3 of any of the Area Multi-Source Risk Action Levels in OAR 340-245-8010 Table 1;

(B) Provide electronic notice to persons on the electronic notice distribution list;

(C) Post information on all Multi-Source Risk Areas on DEQ's website; and

(D) When requested, provide a map of the designated areas and other information as may be necessary to determine the area boundary.

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

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

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

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

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

(A) Any new or modified TEU located in or within 1.5 kilometers of a designated Multi-Source Risk Area, as specified in OAR 340-245-0030(7); or

(B) Any new source located in or within 1.5 kilometers of a designated Multi-Source Risk Area, as specified in OAR 340-245-0030(8);

(b) De minimis sources within a designated Multi-Source Risk Area will not be required to reduce risk;

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

(d) Any source within a designated Multi-Source Risk Area that receives a Conditional Risk Level will not be required to reduce risk further.

(4) If DEQ identifies any areas under paragraph (1)(d)(A) above, then DEQ will hold a public meeting in the area to provide information regarding the area risk, and will provide written public notice of the meeting a minimum of 30 days prior to the meeting.

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

### **340-245-0100**

#### **Alternate Noncancer Risk Action Levels**

(1) For noncancer Risk Action Levels presented as a range in OAR-340- 245-8010 Table 1, the lowest value of that range is the default Risk Action Level. A case-by-case determination may be made by DEQ, in consultation with OHA, as to whether a higher Alternate Noncancer Risk Action Level within that range may be allowed for a specific air toxic or set of air toxics for a specific source or area. In making this determination, DEQ will consider the criteria in subsections (a) through (d) for the air toxics contributing the most to the exceedance of the noncancer Risk Action Level on a target organ-specific basis. If DEQ determines that the criteria in subsections (a) through (d) are met, DEQ may further consider whether a higher Alternate Noncancer Risk Action Level may be appropriate based on the additional criteria in subsections (e) through (h). In cases where more than one air toxic substantially contributes to a target organ-specific Hazard Index, DEQ will determine the relative contribution of each air toxic to total risk and establish an appropriate Risk Action Level that reflects the combined risk of all such air toxics.

(a) DEQ does not have discretion to consider an Alternate Noncancer Risk Action Level greater than the applicable maximum value listed in OAR 340-245-8010 Table 1.

(b) DEQ may not consider an Alternate Noncancer Risk Action Level that would erode more than 10% of the total uncertainty factor in the toxicity reference values for an air toxic. For example, if the total uncertainty factor for an air toxic is 30, the Alternate Noncancer Risk Action Level may not exceed 3; if the total uncertainty factor is 100, an Alternate Noncancer Risk Action Level may go up to 10. If the total uncertainty factor is equal to or less than 10, the default Risk Action Level must be used.

(c) DEQ must use the default Risk Action Level for any air toxic with toxicity reference values based on severe health effects. DEQ, after consultation with OHA, will determine whether an effect is a severe health effect. Severe health effects include developmental effects associated with pre- or postnatal exposure, or otherwise irreversible health effects.

(d) DEQ will not consider toxicity reference values other than those listed in OAR 340-245-8030 Table 3.

(e) DEQ may consider differences between the original intent of the toxicity reference values developed by authoritative bodies and how they are being applied under the Cleaner Air Oregon rules. For example, in some cases, acute toxicity reference values are based on studies with effects measured over months, as opposed to the 24 hour exposure period defined for acute toxicity reference values.

(f) DEQ has discretion to not allow an Alternate Noncancer Risk Action Level if air toxics impacting the same health effect are present in water, soil or food in the community in addition to air.

(g) DEQ has discretion to not allow an Alternate Noncancer Risk Action Level if the potentially exposed community has characteristics that could make them especially susceptible to the effects of environmental contaminants. Especially susceptible groups include, but are not limited to, persons with low income, minorities, pregnant women and their developing fetuses, children, the elderly, and people with pre-existing health conditions.

(h) DEQ may consider whether the air toxics contributing to risk pose acute or chronic health conditions.

(2) Procedure.

(a) The owner or operator of a source with a noncancer risk that is greater than the lowest applicable noncancer Risk Action Level in the range listed in OAR-340-245-8010 Table 1, may request a higher Alternate Noncancer Risk Action Level. The Alternate Noncancer Risk Action Level may not exceed the highest value in the Risk Action Level range in OAR-340-245-8010 Table 1.

(b) In a request under subsection (a), the owner or operator of a source must identify the air toxics that are contributing most to the Hazard Index and document the Hazard Quotients for those individual air toxics.

(c) DEQ will evaluate the risk and the source's proposal for an Alternate Noncancer Risk Action Level based on the criteria listed in section (1).

(d) If DEQ concludes that it is not appropriate to allow a higher Alternate Noncancer Risk Action Level, then the lowest Risk Action Level in the applicable range listed in OAR 340-245-8010 Table 1 will apply.

(e) If DEQ concludes that a higher Alternate Noncancer Risk Action Level within the applicable range in OAR 340-245-8010 Table 1 is allowable, then:

(A) The Alternate Noncancer Risk Action Level will be proposed in the draft Air Toxics Permit Attachment; and

(B) The facility's noncancer Hazard Index would be evaluated in relation to the Alternate Noncancer Risk Action Level if the Alternate Noncancer Risk Action Level is granted in the issued Air Toxics Permit Attachment.

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

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

### **340-245-0200**

#### **Modeling Requirements**

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

(2) All modeled estimates of ambient concentrations required under this division must be based on the applicable air quality models and other requirements as specified in 40 CFR part 51, Appendix W, "Guidelines on Air Quality Models (Revised)." 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.

(3) Modeling will be based on pre-existing PTE.

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

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

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

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

(c) Meteorological and topographical data, specific details of models used, and other information used to estimate air quality concentrations and risk at exposure locations.

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

## 340-245-0210

### Comprehensive Health Risk Assessment Procedure

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

(2) The Comprehensive Health Risk Assessment must include but is not limited to:

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

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

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

(d) A toxicity assessment evaluating the carcinogenicity, noncarcinogenic chronic effects, and noncarcinogenic acute effects of air toxics to which human populations may be exposed, including quantifying noncarcinogenic effects separately for different organ systems, and determining persistence and bioaccumulation potential. DEQ will not consider toxicity reference values other than those listed in OAR 340-245-8030 Table 3;

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

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

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

(4)(a) Within 45 days of DEQ's receipt of the Comprehensive Health Risk Assessment, DEQ will confirm receipt to the source by email and conduct an initial completeness review of the Comprehensive Health Risk Assessment.

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

(A) The Comprehensive Health Risk Assessment is prepared consistent with the approved work plan; and

(B) The information provided is complete and accurate.

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

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

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

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

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

### **340-245-0220**

#### **Risk Reduction Plan or TBACT Plan Requirements**

(1) A Risk Reduction Plan and a TBACT Plan have similar purposes and must meet essentially identical procedural requirements. They are used in different situations and the names are different for the sake of clarity.

(a) Risk Reduction Plan. The purpose of a Risk Reduction Plan is to allow a source to achieve compliance with the applicable Source Risk Action Level in OAR 340-245-8010 Table 1 within a reasonable, specified period of time.

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

- (c) Only an existing source may request a Risk Reduction Plan or TBACT Plan.
  - (d) For the purpose of this rule, the term “Plan” refers to a Risk Reduction Plan or a TBACT Plan, as applicable.
- (2) The owner or operator of a source that is requesting approval of a Plan must submit to DEQ the following:
- (a) An application for an F3 Air Toxics Permit Attachment;
  - (b) The proposed Plan; and
  - (c) The fee specified in OAR 340-216-8030 Table 3 for a Plan, except that if the owner or operator is required to request both a Plan and Conditional Risk Level under OAR 340-245-0080(1)(a)(D), the owner or operator must submit only one application and must pay only the greater of the fees owed to submit either a Plan or to request a Conditional Risk Level under OAR 340-216-8030 Table 3.
- (3) A proposed Plan must include the following:
- (a) Identifying information, including the name of the owner or operator of the source, the owner’s or operator’s mailing address, the source address, the nature of the business, the name and phone number of the primary contact at the source, permit number, and SIC or NAICS code of the source;
  - (b) The results of a Source Risk Assessment performed under OAR 340-245-0080(7) or (8) including the estimated maximum risk before and after full implementation of the Plan;
  - (c) Two air toxics emissions inventories:
    - (A) An emissions inventory for the source before implementation of the Plan measures; and
    - (B) An emissions inventory for the source after implementation of proposed Plan measures;
  - (d) Identification of each TEU from which risk will be reduced;
  - (e) For each TEU identified in subsection (d):
    - (A) For a TBACT Plan, provide the TBACT evaluation under OAR 340-245-0330; and
    - (B) For a Risk Reduction Plan, in addition to any other risk reduction measures, provide an evaluation of Pollution Prevention measures that may reduce or eliminate emissions of air toxics, and identify any such measures that the source proposes to implement.
  - (f) A schedule for implementing the specified Plan measures within the time frames allowed under section (7), if not sooner. The schedule must specify:
    - (A) The dates by which the source will implement the specified Plan measures;

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

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

(g) If requesting a time extension allowed under section (7), information required to demonstrate that there is good cause for the request and the length of time requested. Examples of good cause include the inability of the owner or operator of the source to meet the allowable time despite making a good-faith effort to do so. It is the owner's or operator's burden to demonstrate to DEQ's satisfaction that good cause exists and good-faith efforts were made by the owner or operator of the source;

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

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

(4) Procedural requirements for a Plan.

(a) No more than 45 days following submittal of a complete Plan application, the owner or operator must hold a community engagement meeting to present and receive comments on the proposed Plan.

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

(B) The owner or operator must provide public notice of the meeting at least 30 days before the meeting date. The public notification must, at a minimum, meet the requirements of OAR 340-245-0250(3) and include the Plan and the application. The public notice may include notice of a second community engagement meeting required under subsection (c), provided that the public notice requirement under paragraph (c)(B) for the second meeting is also met; and

(C) DEQ or OHA staff will attend and participate at the meeting.

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

(c) No less than 30 days but no more than 45 days following the first community engagement meeting required under subsection (a), the owner or operator must hold a second community engagement meeting to present and explain any proposed revisions to, or reasons for not revising, the Plan, and to receive public comments;

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

(B) The owner or operator must provide public notice of the second meeting at least 30 days before the meeting date. The public notification must, at a minimum, meet the requirements of OAR 340-245-0250(3); and

(C) DEQ or OHA staff will attend and participate at the meeting.

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

(A) May further revise the Plan; and

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

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

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

(B) A description of how each was notified;

(C) The number of attendees at the meeting;

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

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

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

(5) Approval of Plan.

(a) DEQ will propose approval of a Plan if the application submitted under section (2) demonstrates compliance with the requirements described in sections (3) and (4). If DEQ concludes that the application does not meet such requirements, then DEQ will identify deficiencies that the owner or operator must correct, if possible. The owner or operator may then correct such deficiencies and resubmit its application to DEQ.

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

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

(B) Following consideration of comments from the owner or operator, DEQ may revise the proposed Plan and the draft Air Toxics Permit Attachment. When DEQ has completed such revisions, if any, then DEQ will:

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

(ii) Schedule a public hearing at a reasonable time and place to allow interested persons to submit oral or written comments and provide a minimum of 30 days public notice for the hearing.

(C) DEQ must consider the public comments it receives under subsection (B) and then will determine whether to deny, revise, or issue a final Air Toxics Permit Attachment.

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

#### (6) Distribution of Plan

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

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

(A) Official neighborhood associations;

(B) Schools;

(C) Daycare centers;

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

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

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

#### (7) Plan implementation requirements.

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

(b) An owner or operator whose risk at the time of initial Plan approval is less than or equal to the Accelerated Schedule Risk Action Level in OAR 340-245-8010 Table 1 is allowed the following time to implement the Plan:

(A) The Plan must be fully implemented within three years from the initial Plan approval date; and

(B) DEQ may allow the owner or operator two additional years to implement risk reduction measures and achieve required risk reductions.

(i) The owner or operator must apply for a permit modification to request additional time to implement risk reduction measures as specified under section (8).

(ii) Examples of good cause include the inability of the owner or operator of the source to meet the allowable time despite making a good-faith effort to do so.

(iii) It is the owner's or operator's burden to demonstrate to DEQ's satisfaction that good causes exist and good-faith efforts were made by the owner or operator of the source.

(c) An owner or operator whose risk at the time of initial Plan approval is greater than the Accelerated Schedule Risk Action Level in OAR 340-245-8010 Table 1 is allowed the following time to implement the Plan:

(A) The Plan must be fully implemented within two years from the initial Plan approval date; and

(B) DEQ may allow the owner or operator two additional years to implement risk reduction measures and achieve required risk reductions.

(i) The owner or operator must apply for a permit modification to request additional time to implement risk reduction measures as specified under section (8).

(ii) Examples of good cause include the inability of the owner or operator of the source to meet the allowable time despite making a good-faith effort to do so.

(iii) It is the owner's or operator's burden to demonstrate to DEQ's satisfaction that good causes exist and good-faith efforts were made by the owner or operator of the source.

(d) An owner or operator whose source risk at the time of initial Plan approval is greater than or equal to the applicable Permit Denial Risk Action Level in OAR 340-245-8010 Table 1 is allowed the following time to implement the Plan:

(A) Within six months from the initial Plan approval date, the owner or operator:

(i) Must reduce risk to less than or equal to the applicable Permit Denial Risk Action Level in OAR 340-245-8010 Table 1 by whatever means are necessary, including reducing production rates or hours of operation; and

(ii) Must continue to implement the measures taken to reduce risk to less than or equal to the applicable Permit Denial Risk Action Level in OAR 340-245-8010 Table 1 until such time as the source is able to maintain source risk at less than or equal to the Permit Denial Risk Action Level by other means.

(B) The Plan must be fully implemented within two years from the initial Plan approval date; and

(C) DEQ may allow the owner or operator two additional years to implement risk reduction measures and achieve required risk reductions.

(i) The owner or operator must apply for a permit modification to request additional time to implement risk reduction measures as specified under section (8).

(ii) Examples of good cause include the inability of the owner or operator of the source to meet the allowable time despite making a good-faith effort to do so.

(iii) It is the owner's or operator's burden to demonstrate to DEQ's satisfaction that good causes exists and good-faith efforts were made by the owner or operator of the source.

(e) A source whose risk after completion of all Plan requirements will be greater than any applicable Director Consultation Risk Action Level is subject to OAR 340-245-0230(7).

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

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

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

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

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

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

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

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

(A) The meeting must comply with the requirements in OAR 340-245-0250(3); and

(B) Public notice of the meeting must be given at least 30 days before the meeting date and must, at a minimum, meet the requirements of OAR 340-245-0250(4).

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

- (A) A list of all persons, groups or entities notified by the owner or operator;
  - (B) A description of how each was notified;
  - (C) The number of attendees at the meeting;
  - (D) A summary of the owner or operator's presentation;
  - (E) A summary of questions and comments from the participants at the meeting along with responses provided by the owner or operator; and
  - (F) A brief description of the owner's or operator's proposed changes to the Plan after the meeting, if any.
- (i) The owner or operator must submit a Plan completion report to DEQ no more than 60 days after completing all Plan requirements. The report must include:
    - (A) The final increments of progress achieved in fully implementing the risk reduction measures specified in the Plan;
    - (B) The date the final increments of progress were achieved;
    - (C) The results of the demonstration of the effectiveness of the Plan measures; and
    - (D) The remaining source risk after completion of all risk reduction measures; and
  - (j) No more than 60 days after completing all Plan requirements, the owner or operator must provide public notification that the Plan has been completed. The public notification must meet the requirements in OAR 340-245-0250(4).
  - (k) Each time an additional time extension is requested, a request to revise the Plan and Air Toxics Permit Attachment must be submitted as required under section (8) and the public notice procedures in subsection (5)(e) must be followed prior to DEQ's approval of the request.
  - (l) Measures implemented in order to comply with other regulatory requirements are acceptable Plan measures for the purposes of this rule, provided they are consistent with the requirements of this rule.
- (8) Updates and Modification of Plans.
- (a) The owner or operator must update or revise a Plan if:
    - (A) The owner or operator is referred to this section by another rule in this division;
    - (B) The owner or operator requests a change to the Plan including extension requests;
    - (C) The owner or operator requests a change to a condition in an Air Toxics Permit Attachment that would increase the source's risk level; or

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

(b) If an owner or operator must update or modify a Plan under subsection (a), then the owner or operator must submit an application for a modification of the Air Toxics Permit Attachment under OAR 340-245-0300(12) no more than 45 days after the date notice was received or it was determined that an update is required under subsection (a) that includes:

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

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

(C) A copy of the proposed revised Plan.

(c) To request an extension to a compliance date in a Plan or Air Toxics Permit Attachment, the owner or operator must submit the application at least 180 days before the compliance date specified in the current Plan or Air Toxics Permit Attachment with a showing of good cause. Examples of good cause include the inability of the owner or operator of the source to meet the allowable time despite making a good-faith effort to do so. It is the owner's or operator's burden to demonstrate to DEQ's satisfaction that good cause exists and good-faith efforts were made by the owner or operator of the source.

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

### **340-245-0230**

#### **Conditional Risk Level Requirements**

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

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

(a) Must be determined based on a Comprehensive Health Risk Assessment completed under OAR 340-245-0210.

(b) Must be set at the lowest reasonable level taking into consideration factors such as, but not limited to, the source's current TEUs, any future TEUs that have been approved by DEQ, current

or anticipated future operations, pre-existing PTE, or new PTE or risk-limiting conditions proposed by the owner or operator.

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

(a) The source is unable to demonstrate compliance with OAR 340-245-0080(5) through (8);

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

(B) The source is granted a postponement of risk reductions for one or more significant TEUs under section (4); and

(c) The source's risk will be no greater than the Existing Source Permit Denial Risk Action Level in OAR 340-245-8010 Table 1 within:

(A) The time allowed under a TBACT Plan; or

(B) Six months after issuance of the sources' Air Toxics Permit Attachment if a TBACT Plan is not required.

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

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

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

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

(C) A determination of:

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

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

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

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

(b)(A) An owner or operator must include an initial postponement request in the source's Air Toxics Permit Attachment application under section (5); and

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

(c) The owner or operator making a request under this section:

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

(B) Is required to provide DEQ, on a confidential basis if the information meets the requirements of 340-214-0130, audited financial information about the source. The information will include federal tax returns for the most recent three years, the most current years audited financial statement, a signed auditor's statement provided by a certified public accountant, the sources latest income statement and balance sheet, and a completed DEQ form Statement of Financial Condition for Businesses or Statement of Financial Condition for Individuals. DEQ agrees to hold the information as confidential to the extent consistent with the public records law.

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

(A) Review the request;

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

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

(ii) Ability to pay in each of the EPA models is based on cash flows and the ability to take on additional debt in the amount owed to install TBACT;

(iii) Upon request of the owner or operator, DEQ will provide the name of the version of the model used and respond to any reasonable request for information about the content or operation of the model;

(C) Evaluate the following at exposure locations that will exceed an applicable Risk Action Level:

(i) The presence of sensitive populations;

(ii) The percentile of persons with low income, minority persons, and residents under 5 years old; and

(iii) Total population resident within one kilometer of the source; and

(D) Consider both the potential economic harm to the business of requiring that the identified risk reductions be made against the burden of risk to the exposed population if the risk reductions are postponed.

(e) Negotiation and consultation.

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

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

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

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

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

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

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

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

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

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

(b) The proposed Conditional Risk Level; and

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

application and must pay only the greater of the fees required to submit either a Risk Reduction Plan or a request for a Conditional Risk Level under OAR 340-216-8030 Table 3.

(6) Procedural requirements.

(a) No more than 45 days following submittal of a complete application, the owner or operator must hold the first community engagement meeting to present the proposed Conditional Risk Level and receive public comments on the proposal.

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

(B) The owner or operator must provide public notice of the meeting at least 30 days before the meeting date. The public notification must, at a minimum, comply with the requirements of OAR 340-245-0250(3) and provide information on how interested persons may obtain a copy of the Conditional Risk Level proposal and the application. The public notice may include notice of a second community engagement meeting required under subsection (c), provided that the public notice requirement under paragraph (c)(B) for the second meeting must also be met; and

(C) DEQ or OHA staff will attend and participate in the meeting.

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

(c) No less than 30 days and no more than 45 days following the first community engagement meeting required under subsection (a), the owner or operator must hold a second community engagement meeting to present and explain any proposed revisions to, or reasons for not revising, the Conditional Risk Level proposal and to receive public comments;

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

(B) The owner or operator must provide public notice of the second meeting at least 30 days before the meeting date. The public notification must, at a minimum, meet the requirements of OAR 340-245-0250(3); and

(C) DEQ or OHA staff will attend and participate in the meeting.

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

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

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

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

- (A) A list of all persons, groups or entities notified by the owner or operator;
  - (B) A description of how each was notified;
  - (C) The number of attendees at the meeting;
  - (D) A summary of the owner or operator's presentation;
  - (E) A summary of questions and comments from the participants at the meeting along with responses provided by the owner or operator; and
  - (F) A brief description of any changes the owner or operator made to the Conditional Risk Level proposal after the meetings.
- (7) Approval of Conditional Risk Level.
- (a) DEQ will propose approval of a requested Conditional Risk Level if the application submitted under section (5) demonstrates compliance with the requirements described in sections (3) and (6). If DEQ determines that the application does not demonstrate such compliance, then DEQ will identify deficiencies that the owner or operator must correct.
- (A) DEQ will follow the Category III public participation requirements in OAR chapter 340, division 209 for applications that are not subject to subsection (b); and
  - (B) DEQ will follow the Category IV public participation requirements in OAR chapter 340, division 209 for applications that are subject to subsection (b).
- (b) Only the DEQ Director may approve a Conditional Risk Level that exceeds any DEQ Director Consultation Risk Action Level in OAR 340-245-8010 Table 1 for a new or an existing source, but only after DEQ, after consulting with OHA, has provided an opportunity for input from all local city and county elected officials that represent election districts that include any portion of the notification area, local Indian governing bodies, state and federal agencies that have jurisdiction in the notification area, and the local impacted community.
- (A) The Director will consider the input received during the Category IV informational meeting under paragraph (a)(B) and OAR 340-209-0030(d)(ii), and will also consider, including but not limited to, the following:
- (i) Whether the owner or operator of a new source considered alternative locations where the health risk would be lower;
  - (ii) The size of the exposed population;
  - (iii) The size of disproportionately impacted vulnerable or sensitive populations;
  - (iv) The economic impact on the local community, including but not limited to the number of jobs that may be affected; and

(v) The potential impact on public health, including the severity of potential acute and chronic health effects associated with each chemical contributing to risk, whether the toxicity reference values are designed to protect against acute or chronic health effects, the degree of scientific uncertainty around toxicity reference values for each chemical, and the potential for cumulative impacts from multiple pathways of exposure.

(B) The review report required under OAR 340-245-0300(8)(c) will include a description of the factors considered by the DEQ Director and the basis for the final decision.

(c) If DEQ proposes approval of a requested Conditional Risk Level, DEQ will prepare a draft F3 Air Toxics Permit Attachment. The draft F3 Air Toxics Permit Attachment may include a compliance schedule to implement the Risk Reduction Plan.

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

(B) Following consideration of comments from the owner or operator, DEQ may revise the proposed Conditional Risk Level and the draft F3 Air Toxics Permit Attachment.

(C) When DEQ has completed such revisions, if any, then DEQ will issue the proposed Air Toxics Permit Attachment for public comment.

(D) DEQ must consider the public comments it receives under paragraph (C) and then will determine whether to deny, revise, or issue a final Air Toxics Permit Attachment.

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

(8) Distribution of Information Regarding an Approved Conditional Risk Level.

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

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

(A) Official neighborhood associations;

(B) Schools;

(C) Daycare centers;

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

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

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

(9) Conditional Risk Level Implementation Requirements

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

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

(B) For all significant TEUs that currently meet TBACT, submit TBACT update reports to DEQ beginning no more than five years after issuance of the permit attachment and every five years thereafter. Submit the update reports with the annual report required to be submitted by the source's operating permit, or by some other date specified in the Air Toxics Permit Attachment; and

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

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

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

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

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

(c) The requirement to perform periodic TBACT reviews and submit periodic TBACT update reports under subsection (a) must continue until such time as the risk from the source no longer

exceeds the applicable Source Risk Action Level in OAR 340-245-8010 Table 1. If a TEU is equipped with new or improved control measures under this section, future TBACT reviews must still include review of new or improved control measures for that TEU.

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

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

- (i) The remaining service life of any existing emission control system that would be replaced;
- (ii) The relative effectiveness of the new or improved control measure to reduce the source risk as compared to the risk using the existing control measure;
- (iii) The cost of installation and operation, including the cost of removing any existing control measure; and
- (iv) Any other factors that DEQ finds are relevant.

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

- (i) Work with the owner or operator to determine the date by which the control measure must be installed within a reasonable time frame; and
- (ii) Determine a new Conditional Risk Level based on information on the amount of air toxics removed by the control measure and issue an amended Air Toxics Permit Attachment.

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

- (i) The meeting must meet the requirements in OAR 340-245-0250(2); and
- (ii) Public notice of the meeting must be given at least 30 days before the meeting date and must, at a minimum, meet the requirements of OAR 340-245-0250(3).

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

- (i) A list of all persons, groups or entities notified by the owner or operator;
- (ii) A description of how each was notified;
- (iii) The number of attendees at the meeting;

- (iv) A summary of the owner or operator's presentation; and
- (v) A summary of questions and comments from the participants at the meeting along with responses provided by the owner or operator.

(10) Updates and Modification of Conditional Risk Levels

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

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

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

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

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

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

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

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

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

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

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

**340-245-0240**

**Cleaner Air Oregon Monitoring Requirements**

(1) The owner or operator of a source may propose to perform ambient monitoring under this rule.

(2) Cleaner Air Oregon Monitoring requirements.

- (a) Cleaner Air Oregon monitoring must be conducted following a Cleaner Air Oregon Monitoring Plan developed in accordance with the Cleaner Air Oregon Monitoring Plan Template and approved by DEQ.
- (b) Cleaner Air Oregon monitoring must be conducted for a period of not less than 12 months. There must be at least 12 months of valid data with greater than 75 percent data completeness per quarter.
- (c) The owner or operator requesting approval of a Cleaner Air Oregon Monitoring Plan must submit the following:
  - (A) A proposed Cleaner Air Oregon Monitoring Plan that complies with section (3);
  - (B) A community engagement plan that describes how the source will comply with section (4); and
  - (C) The fee specified in OAR 340-216-8030 Table 3 for a Cleaner Air Oregon Monitoring Plan.
- (3) A proposed Cleaner Air Oregon Monitoring Plan must include the following:
  - (a) Identification of all air toxics that will be monitored;
  - (b) A description of all proposed monitoring locations;
  - (c) A description of the monitoring and analysis protocols for each air toxic to be monitored, including at a minimum:
    - (A) The frequency of sampling at each monitoring location and the duration of each sample (i.e., the length of time in hours each sample runs);
    - (B) The monitoring equipment and methods to be used for each air toxic;
    - (C) Analytical methods and the analytical method detection and reporting limits to be used for each air toxic;
    - (D) Quality assurance and quality control measures to be taken and who will be performing these measures; and
    - (E) Descriptions of security measures to protect the monitoring equipment.
  - (d) A description of how to determine and account for the ambient concentration of each air toxic that results from all causes other than the source under consideration, including natural and unknown causes;
  - (e) A description of how and where meteorological monitoring will be performed and the meteorology equipment used; and
  - (f) A description of how the data will be reduced and how often the results will be reported to DEQ. Results must be reported on at least a monthly basis.

(4) Procedural requirements for a Cleaner Air Oregon Monitoring Plan. If the owner or operator did not provide a community engagement opportunity for the Cleaner Air Oregon Monitoring Plan under the community engagement requirements under OAR 340-245-0220 or 340-245-0230, they must do the following:

(a) No more than 45 calendar days following submittal of a proposed Cleaner Air Oregon Monitoring Plan to DEQ, the owner or operator must hold the first community engagement meeting to present and receive comments on the proposed Cleaner Air Oregon Monitoring Plan.

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

(B) The owner or operator must provide public notice of the meeting at least 30 calendar days before the meeting date. The public notification must, at a minimum, meet the requirements of OAR 340-245-0250(3) and include a description of the Cleaner Air Oregon Monitoring Plan. The public notice may include notice of a second community engagement meeting required under subsection (c), provided that the public notice requirement under paragraph (c)(B) for the second meeting is also met; and

(C) DEQ or OHA staff will attend and participate in the meeting.

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

(c) No less than 30 days but no more than 45 days following the first community engagement meeting required under subsection (a), the owner or operator must hold a second community engagement meeting to present and explain any proposed revisions to, or reasons for not revising, the elements of the Cleaner Air Oregon Monitoring Plan and receive comments.

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

(B) Public notice of the second meeting must be given at least 30 calendar days before the meeting date. The public notification must, at a minimum, meet the requirements of OAR 340-245-0250(3); and

(C) DEQ or OHA staff will attend and participate in the meeting.

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

(A) May further revise the Cleaner Air Oregon Monitoring Plan; and

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

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

- (A) A list of all persons, groups or entities notified;
- (B) A description of how each was notified;
- (C) The number of attendees at the meeting;
- (D) A summary of the owner or operator's presentation;
- (E) A summary of questions and comments from the participants at the meeting along with responses provided by the owner or operator; and
- (F) A brief description of any changes made to the Cleaner Air Oregon Monitoring Plan after each meeting.

(5) Approval of Cleaner Air Oregon Monitoring Plan

(a) DEQ will review the plans submitted under paragraphs (1)(c)(A) and (B) to determine if they comply with the requirements described in sections (3) and (4). If DEQ determines not to approve a plan, then DEQ will identify deficiencies that the owner or operator must correct.

(b) DEQ will review the final Cleaner Air Oregon Monitoring Plan submitted under paragraph (4)(d)(B). If DEQ determines not to approve the plan, then DEQ will identify deficiencies that the owner or operator must correct.

(c) If DEQ determines that the owner or operator did not comply with the requirements of section (4), then DEQ will not approve the Cleaner Air Oregon Monitoring Plan.

(d) If DEQ determines to approve the final Cleaner Air Oregon Monitoring Plan, DEQ will issue a letter to the owner or operator approving the plan.

(6) Distribution of the Cleaner Air Oregon Monitoring Plan.

Following issuance by DEQ of a letter approving the Cleaner Air Oregon Monitoring Plan, the owner or operator must:

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

(A) Official neighborhood associations;

(B) Schools;

(C) Daycare centers;

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

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

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

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

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

(B) Meteorological data summary;

(C) Production data; and

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

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

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

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

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

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

(B) A description of how each was notified;

(C) The number of attendees at the meeting;

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

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

(f) Submit a Cleaner Air Oregon Monitoring final report in accordance with the DEQ approved Cleaner Air Oregon Monitoring Plan that also includes a description of any process changes that have occurred during the ambient monitoring period that may affect the results of the

monitoring, to DEQ no more than 60 calendar days after completing all Cleaner Air Oregon Monitoring Plan requirements; and

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

(7) Modification of Cleaner Air Oregon Monitoring Plan.

If an owner or operator must update or modify a Cleaner Air Oregon Monitoring Plan, then the owner or operator must submit the following to DEQ and the locations identified in subsection (6)(a) no more than 14 days after the date the plan was changed:

(A) A description of all changes to the Cleaner Air Oregon Monitoring Plan;

(B) A description of why the changes are necessary; and

(C) A copy of the revised Cleaner Air Oregon Monitoring Plan.

(8)(a) Upon completion of the ambient monitoring and assessment of risk based on the ambient monitoring, the owner or operator must submit to DEQ the ambient monitoring data and assessment of risk based on the ambient monitoring.

(b) Upon receipt of ambient monitoring data and assessment of risk under subsection (a), DEQ will review the ambient monitoring data and assessment of risk and determine if they are acceptable to DEQ.

(c) If DEQ approves the monitoring results and assessment of risk, the owner or operator:

(A) May be required to comply with OAR 340-245-0800(1)(F)(vi);

(B) May be allowed to submit a revised application under OAR 340-245-0800(1)(F)(iv); or

(C) May be allowed to request a modification of the Air Toxics Permit Attachment under OAR 340-245-0800(1)(F)(v).

(d) DEQ will not delay issuance of an Air Toxics Permit Attachment as specified under OAR 340-245-0800(1)(F)(vi).

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

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

### **340-245-0250**

## **Community Engagement Plan and Notice Requirements**

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

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

- (a) A map or other description of the boundary of the notification area;
- (b) Addresses and contact information for any of the following and locations that are entirely or partially within the notification area:
  - (i) Official neighborhood associations;
  - (ii) Schools;
  - (iii) Daycare centers;
  - (iv) Community groups and sensitive populations, including hospitals, nursing homes, and long-term care facilities; and
  - (v) Local elected officials, local Indian governing bodies, and state and federal agencies that have jurisdiction in the notification area.
- (c) Identification of sensitive populations in the notification area;
- (d) Identification of all languages spoken by more than ten percent of the population in the notification area, to the extent reasonably possible using census data or other reasonably available community sources of information.
- (e) Times, dates and locations of all planned public meetings regarding the source's permitting activities under the Cleaner Air Oregon rules;
- (f) Identification of appropriate communication materials and approaches to ensure that community member have sufficient understanding of the technical background to be able to meaningfully engage and provide comment;
- (g) Complaint line information. The owner or operator must:
  - (A) Provide an email address or phone number to the source's owner or operator, or its representative;

- (B) Identify such contact information as a “complaint line;”
  - (C) Regularly monitor and keep records of communications received by the line; and
  - (D) Submit to DEQ in the annual report:
    - (i) The number of complaints received each calendar year; and
    - (ii) Any action taken in response to the complaints.
  - (h) Potential plans for a community committee. If a community committee is requested by ten or more residents who live within the notification area, the owner or operator must establish a community committee or other forum for regular meetings between community members and the source contact, and provide or agree to a meeting location that is accessible to community members. The frequency of the meetings should be based on mutual agreement between the owner or operator and the community members; and
  - (i) At the discretion and option of the owner or operator, a description of the owner’s or operator’s plans to continue its dialogue with the community after the owner or operator has completed its notification requirements. This dialogue could take the form of newsletters, source tours, or additional public meetings. DEQ encourages these efforts and requests that facilities keep DEQ informed about their communication activities.
- (2) Community Engagement Meetings. The owner or operator must comply with the following procedures for Community Engagement Meetings:
- (a) Community engagement meetings must be scheduled on a weekday evening, or other time that is convenient to the majority of community attendees, at a location that is Americans with Disabilities Act compliant, is convenient for community members to attend and can be accessed by public transportation. The owner or operator must reserve a venue for the community engagement meeting, arrange for audio and visual equipment and personnel to be available at the site, and provide language translation for all languages spoken by more than ten percent of the population in the notification area, as determined to the extent reasonably possible using census data or other reasonably available community sources of information.
  - (b) The agenda for the community engagement meeting must include a presentation by the owner or operator or its representative followed by a question and answer period for the meeting participants. DEQ recommends that the presentation not exceed 30 minutes, with additional time provided for questions and answers as reasonably necessary. The following topics must be included in the presentation:
    - (A) Purpose of the meeting;
    - (B) Description of the source: type of operation, processes involved, and materials used or produced at the source;
    - (C) Description of the Level 3 Source Risk Assessment under OAR 340-245-0080(7) or the Comprehensive Health Risk Assessment process under OAR 340-245-0210;

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

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

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

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

### (3) Public notification of Community Engagement Meetings

(a) The owner or operator is required to provide public notification in the notification area. Public notification efforts must be tailored to ensure that sensitive populations in the community are reached. Notification must be in English as well as any other languages that are used or believed to be used by at least ten percent of residents within the notification area, as determined to the extent reasonably possible using census data or other reasonably available community sources of information. If the owner or operator has a public website that is specific to the source requiring community engagement, the owner or operator must post notice of the meeting on the website and must also provide written notice via U.S. mail, an express mail service, or hand delivery to the following:

(A) All addresses within the notification area, including schools, daycare centers, community groups, hospitals, nursing homes, long-term care facilities and residences;

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

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

(b) Public notification materials.

(A) The written notice under subsection (a) must include the following information:

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

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

(iii) The following statement:

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

(c) The owner or operator must provide the public with access to copies of the Risk Assessment required under OAR 340-245-0080(7) or (8), either in hardcopy at the community engagement meeting or electronically at a specified link or web site, made available not less than 14 days before the community engagement meeting.

(d) Distribution of Notice

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

(B) Not less than 14 days before any community engagement meetings required by OAR 340-245-0220, 340-245-0230, or 340-245-0240 the owner or operator must provide the public notification materials required under subsection (b) to the recipients required under subsection (a).

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

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

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

## **340-245-0300**

### **Air Toxics Permit Attachments**

(1) Purpose and Intent.

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

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

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

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

(D) Approve and modify a Conditional Risk Level and require the owner or operator of a source to implement the ongoing requirements of a Conditional Risk Level.

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

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

(d) DEQ may establish limits in an Air Toxics Permit Attachment for the purpose of limiting the potential to emit air toxics or the risk from a source.

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

(3) An Air Toxics Permit Attachment is issued to an owner or operator of a source in addition to the owner's or operator's operating or construction permit for the source. An Air Toxics Permit Attachment will have no expiration date.

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

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

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

(7) Application Requirements.

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

(A) Identifying information, including the owner's or operator's name, the owner's or operator's mailing address, the address of the source, and the nature of source's business operation, such as by providing the Standard Industrial Classification (SIC) code that applies to the source's operations;

(B) The name and phone number of a local person employed by the owner or operator who is responsible for compliance with the permit;

(C) The name of a person authorized to receive requests for data and information;

(D) A description of the source's production processes and a flow chart;

(E) 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 property;

(G) The type and quantity of fuels used by the source;

(H) An estimate of the amount and type of each air toxic emitted by the source in terms of daily, or monthly and yearly rates, showing calculation procedures;

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

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

(K) A Land Use Compatibility Statement signed by a local, city or county, planner either approving or disapproving construction or modification of the source, if required by the local planning agency;

(M) Any other information requested by DEQ.

(b) DEQ may take 120 days or more to process an application for an Air Toxics Permit based on the complexity of the application, and recommends that the owner or operator meet with DEQ to determine a realistic Air Toxics Permit processing timeline.

(c) The owner or operator of a proposed new source with a source risk level of 5 in 1 million to 10 in 1 million, or Hazard Index of 0.5 to 1, as determined under the Level 1 through 4 risk assessment procedures in OAR 340-245-0080(5) through (8), must notify the public about its proposed action by following the procedures in this subsection. The owner or operator must provide such notice no more than 7 days after it submits an application under this division. The owner or operator must tailor its public notification efforts to ensure that sensitive populations in the community are reached. Notification must be in English as well as any other languages that are used or believed to be used by at least ten percent of residents within 1.5 kilometers of the

source, as determined to the extent reasonably possible using census data or other reasonably available community sources of information. If the owner or operator has a public website that is specific to the source, then the owner or operator must post notice of the meeting on the website and must also provide written notice via U.S. mail, an express mail service, or hand delivery to the following:

- (A) All addresses within 1.5 kilometers of the source, including schools, daycare centers, community groups, hospitals, nursing homes, long-term care facilities and residences;
  - (B) Official neighborhood associations for any neighborhoods entirely or partly within 1.5 kilometers of the source. If there are no official neighborhood associations, then place a notice in the local newspaper; and
  - (C) Local elected officials, local Indian governing bodies, and state and federal agencies that have jurisdiction within 1.5 kilometers of the source.
- (d) The notification required under subsection (c) must include:
- (A) Description of the source, type of operation, processes involved, and materials used or produced at the source;
  - (B) Description of source emissions and results of the Risk Assessment performed under OAR 340-245-0080(5) through (8), as applicable;
  - (C) What the owner or operator of the source intends to do to reduce toxic emissions or risk;
  - (D) An offer to hold a community engagement meeting if 10 people or a group representing 10 or more individuals request one; and
  - (E) Contact information for the source, for requesting a community engagement meeting or answering any questions regarding the notification.
- (e) The owner or operator of a proposed new source subject to subsection (b) must hold one public meeting within 30 days of the request if a meeting is requested by more than 10 people or a group representing 10 or more individuals. If such a meeting is required, then the source must:
- (A) Provide at least 30 days notification of the meeting;
  - (B) Provide notification of the meeting following the requirements under subsection (7)(b);
  - (C) Provide public notification materials that include:
    - (i) An invitation to a community engagement meeting with information about the time, date and location;
    - (ii) Identifying information, including the name of the company that owns or operates the source, the owner's or operator's mailing address, the source address, website address, name and phone

number of the primary contact at the source, and name, phone number and email address for submitting complaints about the company;

(iii) The following statement:

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

(iv) The estimated health risk; and

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

(D) Schedule the public meeting on a weekday evening at a location that is American with Disabilities Act compliant and convenient for community members. The owner or operator must reserve a venue for the public meeting, arrange for audio and visual equipment and personnel, and language translation, if necessary. Translation will be required for all languages spoken by more than ten percent of the population within 1.5 kilometers of the source , as determined to the extent reasonably possible using census data or other reasonably available community sources of information;

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

(i) Purpose of the meeting;

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

(iii) Description of source emissions; and

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

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

(ii) A description of how each was notified;

(iii) The number of attendees at the meeting;

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

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

(8) Application review and processing.

(a) Preliminary application review. Within 30 days after receiving the application, DEQ will preliminarily review the application to determine the adequacy and completeness of the information submitted.

(b) The application is not complete unless all applicable fees are submitted to DEQ.

(c) If DEQ determines that additional required information is needed, including corrections or updates, during preliminary application review or at any other time during application processing:

(A) DEQ will promptly ask the applicant in writing for the needed information, and will set a deadline for submittal of the needed information. Applicants must pay the applicable incomplete application fee in OAR 340-216-8030 Table 3 upon submittal of the needed information.

(B) If DEQ determines that additional measures are necessary to gather facts regarding the application, DEQ will notify the applicant in writing that such measures will be instituted along with the timetable and procedures to be followed. Applicants must pay the applicable incomplete application fee in OAR 340-216-8030 Table 3 upon submittal of the needed information.

(C) DEQ will preliminarily consider an application to be withdrawn if the applicant fails to submit information requested under paragraph (A) or (B) within the deadline specified in DEQ's written request.

(D) If an application is considered preliminarily to be withdrawn under paragraph (C), prior to taking final action, DEQ will provide written notification to the applicant of intent to return the application and will allow ten additional days for the applicant to provide the requested information. If the requested information is not provided within the time allowed:

(i) The owner or operator will be considered to have not submitted a complete application, and

(ii) DEQ will consider the application withdrawn and return the application. This will be DEQ's final action on the application.

(d) When DEQ considers an application to be withdrawn under paragraph (c)(D), an owner or operator that wishes to resubmit the application must pay a resubmittal fee that is in addition to all specific activity fees associated with the application. The resubmittal fee:

(A) Is not refundable;

(B) Will increase each time DEQ considers an application to be withdrawn under paragraph (c)(D) and will be calculated as follows:

- (i) The first time an application is considered to be withdrawn, the resubmittal fee equals ten percent of all specific activity fees required for the application;
  - (ii) The second time an application is considered to be withdrawn, the resubmittal fee equals twenty percent of all specific activity fees required for the application; and
  - (iii) The third and subsequent times an application is considered to be withdrawn, the resubmittal fee equals fifty percent of all specific activity fees required for the application.
- (e) When DEQ deems the information in the application is adequate for processing, DEQ will so notify the applicant.
- (f) If DEQ determines that an Air Toxics Permit Attachment is not required during preliminary review of an application or at any time during application processing, DEQ will so notify the applicant in writing. Such notification is a final action by DEQ on the application.
- (g) After DEQ considers a complete application, if DEQ is prepared to issue an Air Toxics Permit Attachment, then DEQ will prepare a review report that sets forth the legal and factual basis for the draft Air Toxics Permit Attachment conditions (including references to the applicable regulatory provisions) for public notice.
- (9) Fees. Applicants must pay the applicable fees in OAR 340-216-8030 Table 3 and OAR 340-220-0050.
- (10) Air Toxics Permit Attachment content.
- (a) An Air Toxics Permit Attachment must:
    - (A) Identify the owner or operator of the source and the source that the Permit Attachment is issued for;
    - (B) Include a list of all TEUs that are subject to an Air Toxics Permit Attachment in addition to all exempt and de minimis TEUs;
    - (C) Include annual and daily risk limits established under OAR 340-245-0310;
    - (D) Include testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with all limits or requirements in the Air Toxics Permit Attachment, as necessary;
    - (E) Include a requirement to construct according to approved plans, if applicable;
    - (F) Include other limits and requirements as necessary to ensure compliance with the Cleaner Air Oregon rules; and
    - (G) Include a compliance schedule to ensure compliance or progress toward compliance with the requirements in the Cleaner Air Oregon rules, as necessary.

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

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

(d) The owner or operator must comply with the more stringent limit or requirement when conditions in an operating permit and an Air Toxics Permit Attachment contain different limits or requirements.

(e) If an Air Toxics Permit Attachment creates a conflict with conditions in a source's operating permit, the owner or operator must apply for a modification of the operating permit under the appropriate rules in OAR 340 chapters 216 or 218 to resolve the conflict.

(11) Public notice requirements for new Air Toxics Permit Attachment issuance.

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

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

(12) Procedures for Air Toxics Permit Attachment modification

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

(A) Construct a new or modify a TEU;

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

(C) Relocate a TEU.

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

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

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

- (i) Increase source risk;
  - (ii) Extend any compliance dates in a compliance schedule by six months or more;
  - (iii) Significantly change proposed control methods in a Risk Reduction Plan; or
  - (iv) Reduce public involvement in a Community Engagement Plan.
- (B) Category I public notice procedures in OAR 340 division 209 for changes that do not:
- (i) Substantively change the Risk Reduction Plan; or
  - (ii) Increase the level of risk that the Risk Reduction Plan is intended to achieve.
- (C) Category II public notice procedures in OAR 340 division 209 for all other types of permit changes not described in paragraphs (A) and (B).
- (d) The fee for an Air Toxics Permit Attachment modification is:
- (A) The Moderate Technical Modification fee under OAR 340-216-8020 Table Part 3 for modifications under paragraph (11)(c)(A);
  - (B) The Basic Technical Modification fee under OAR 340-216-8020 Table 2 Part 3 for modifications under paragraph (11)(c)(B); or
  - (C) The Simple Technical Modification fee under OAR 340-216-8020 Table 2 Part 3 for modifications under paragraph (11)(c)(C).
- (e) DEQ may modify an Air Toxics Permit Attachment at the same time as the source's operating permit is being renewed or undergoing a significant or major modification, if DEQ deems such modification necessary. DEQ must follow the applicable public notice procedure for the Air Toxics Permit Attachment modification under subsection (c), or the public notice procedure for the operating permit, whichever provides more public notice.
- (13) Procedures for Air Toxics Permit Attachment termination or revocation
- (a) DEQ may terminate or revoke an Air Toxics Permit Attachment under the criteria in OAR 340-216-0082(2) or (4), or for the following reasons:
    - (A) DEQ determines that the Air Toxics Permit Attachment is no longer required; or
    - (B) The source's operating permit is terminated or revoked.
  - (b) Public notice is not required for termination or revocation of an Air Toxics Permit Attachment.
- (14) When an owner or operator of a source wishes to apply for more than one Air Toxics Permit Attachment at one time, or the rules in this division require an owner or operator to apply for more than one Air Toxics Permit Attachment at one time, the applications may be combined into

one application for a new or modified Air Toxics Permit Attachment, as appropriate. The owner or operator must pay a single fee equal to the highest applicable fee for a new or modified Air Toxics Permit Attachment, as appropriate.

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

### **340-245-0310**

#### **Source Risk Limits**

(1) The purpose of Source Risk Limits are to limit the chronic and acute risk from a source and apply to an entire source.

(a) Source Risk Limits that address chronic risk apply on a rolling 12 consecutive month basis and limit the source's chronic risk or annual potential to emit, as applicable. Compliance with chronic Source Risk Limits must be determined monthly, unless less frequent compliance determinations are specified in a source's Air Toxics Permit Attachment.

(b) Source Risk Limits that address acute risk apply on a daily basis and limit the source's acute risk or daily potential to emit, as applicable. Compliance with acute Source Risk Limits must be determined at least monthly, unless more frequent compliance determinations are specified in a source's Air Toxics Permit Attachment.

(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 different target organs.

(2) This rule does not limit DEQ's ability to set limits on individual or groups of TEUs.

(3) Source Risk Limits must be expressed in terms of risk, such as X per million for excess cancer risk or Hazard Index of Y, where X and Y indicate a numerical value. Source Risk Limits may also include emissions or production limits that serve to maintain risk below the Source Risk Limits.

(4) DEQ will establish Source Risk Limits on an individual source basis as follows:

(i) DEQ will establish Source Risk Limits separately for each of the following risk categories: chronic cancer, chronic noncancer and acute noncancer risk;

(ii) DEQ will set Source Risk Limits at the applicable Source Risk Action Level in OAR 340-245-8010 Table 1 for the source for any risk categories that are not subject to a Conditional Risk Level, except as provided under section (4); and

(iii) Source Risk Limits will be set equal to any Conditional Risk Levels that apply to the source.

(5) Setting Source Risk Limits at levels less than the applicable Source Risk Action Levels.

(a) DEQ may set a Source Risk Limit at a level that is less than the applicable Source Risk Action Level in OAR 340-245-8010 Table 1 only if DEQ concludes under OAR 340-245-0090 that the Source Risk Limit is necessary to ensure that:

(A) The source's emissions will not cause risk to increase at exposure locations within a designated Multi-Source Risk Area if the risk inside a designated Multi-Source Risk Area exceeds the Multi-Source Risk Action Level; or

(B) The source's emissions will not cause risk to exceed an Area Multi-Source Risk Action Level at exposure locations inside a designated Multi-Source Risk Area or within 1.5 kilometers of a designated Multi-Source Risk Area.

(b) DEQ will not set Source Risk Limits that are less than the applicable Source Risk Action Levels if other limits, such as TEU-specific limits, can be used to ensure compliance with paragraphs (a)(A) or (a)(B).

(c) DEQ will not set Source Risk Limits at levels that are less than the risk levels determined under an Area Multi-Source Risk Determination under OAR 340-245-0090.

(d) DEQ will set Source Risk Limits that are less than the applicable Source Risk Action Levels at the highest possible levels consistent with subsection (a).

(e) To set a Source Risk Limit at a level that is less than the applicable Source Risk Action Level, DEQ:

(A) Will identify the sources that contribute to the risk that exceeds, or may exceed if risk increases, an Area Multi-Source Risk Action Level;

(B) Will establish risk limits for the sources identified under paragraph (A) to ensure compliance with paragraphs (a)(A) or (a)(B);

(C) May set risk limits that apply to one or more individual TEUs; and

(D) May set Source Risk Limits at the levels necessary to ensure compliance with paragraphs (a)(A) or (a)(B).

(f) This section does not require a source to reduce risk more than may be required under a Risk Reduction Plan or TBACT Plan under OAR 340-245-0220.

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

### **340-245-0320**

#### **Calculations**

(1) Directions for the Level 1 Risk Assessment Tool.

(a) When required under OAR 340-245-0080, an owner or operator must calculate a separate sum of risk ratios for each of the following categories: excess cancer risk, chronic noncancer risk, and acute noncancer risk.

(b) The owner or operator must use the following emission rates in this calculation:

(A) Emission rates based on pre-existing PTE, or requested PTE limit, as appropriate;

(B) For excess cancer risk and chronic noncancer risk, the annual emission rates; and

(C) For acute noncancer risk, the maximum 24-hour emission rates.

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

(A) For cancer risk:

(i) For each TEU, use the stack height and distance to the nearest exposure location to identify the appropriate dispersion factor under OAR 340-245-8060 Table 6A;

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

(iii) For each TEU and each air toxic emitted from the TEU, divide the air concentration of the air toxic calculated under subparagraph (ii) by the appropriate RBC of that air toxic under OAR 340-245-8050 Table 5 to calculate the risk from that air toxic at the nearest exposure location;

(iv) For each TEU, add up the risk from each air toxic calculated under subparagraph (iii) to calculate the total risk from that TEU at the nearest exposure location; and

(v) For all TEUs, add up all of the risks calculated under subparagraph (iv) to obtain the total excess cancer risk in 1 million for the entire source.

(B) For chronic noncancer risk:

(i) For each TEU, use the stack height and distance to the nearest exposure location to identify the appropriate dispersion factor under OAR 340-245-8060 Table 6A;

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

(iii) For each TEU and each air toxic emitted from the TEU, divide the air concentration of the air toxic calculated under subparagraph (ii) by the appropriate RBC of that air toxic under OAR 340-245-8050 Table 5 to calculate the risk from that air toxic at the nearest exposure location;

(iv) For each TEU, add up the risk from each air toxic calculated under subparagraph (iii) to calculate the total risk from that TEU at the nearest exposure location; and

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

(C) For acute noncancer risk:

(i) For each TEU, use the stack height and distance to the nearest exposure location to identify the appropriate dispersion factor under OAR 340-245-8060 Table 6B;

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

(iii) For each TEU and each air toxic emitted from the TEU, divide the air concentration of the air toxic calculated under subparagraph (ii) by the Acute RBC for that air toxic under OAR 340-245-8050 Table 5 to calculate the risk from that air toxic at the nearest exposure location;

(iv) For each TEU, add up the risk from each air toxic calculated under subparagraph (iii) to calculate the total risk from that TEU at the nearest exposure location; and

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

(D) In lieu of using stack height and distance to the nearest exposure location to obtain the appropriate dispersion factor under OAR 340-245-8060 Table 6A or 6B, the owner or operator may instead use, as a default, the most conservative dispersion factor, assuming a stack height of 5 meters and an exposure location of 50 meters, which is listed in the upper-left corner of each table. Using these default dispersion factors will result in conservatively high estimates of risk. If the risks calculated using these default dispersion factors are less than or equal to the applicable Source Risk Action Levels, the owner or operator may choose to use the risks calculated in this manner to show compliance with the Source Risk Action Levels.

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

(a) When required under OAR 340-245-0080, an owner or operator must calculate a separate sum of risk ratio for each of the following risk categories: excess cancer risk, chronic noncancer risk, and acute noncancer risk;

(b) When making this calculation, the owner or operator must use concentrations for each air toxic at the nearest exposure location, as follows:

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

(B) For acute noncancer risk, the maximum 24-hour average concentrations must be used.

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

(A) For each TEU, divide the modeled concentration of each air toxic at the nearest exposure location by the appropriate RBC of that air toxic in OAR 340-245-8050 Table 5, ensuring that the concentration is expressed in micrograms per cubic meter;

(B) For each TEU, add up the ratios calculated under paragraph (A) for each air toxic; and

(C) For an entire source, add up the ratios calculated under paragraph (B) to obtain the source's total excess cancer risk in one million or Hazard Index, whichever is applicable. Hazard Indices may be calculated by noncancer target organ.

(3) Significant figures and rounding. When a source risk is calculated for comparison to a Source Risk Action Level and Source De Minimis Risk Action Level in OAR 340-245-8010 Table 1:

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

(A) For comparison to De Minimis Levels, round off to one decimal place; and

(B) For comparison to Risk Action Levels, round off to a whole number; and

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

(4) Non-detect source test results. Owners and operators of sources must use the DEQ Source Sampling Manual (see OAR 340-200-0035) reference test methods for measuring air toxics and must use the criteria listed in the DEQ Source Sampling Manual to determine how to analyze non-detect data from source tests conducted in accordance with OAR 340 division 212.

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

### **340-245-0330**

#### **TBACT and Other Emission Reduction Measures**

(1) The owner or operator of a source may perform a TBACT determination for a TEU at any point in the Risk Assessment process, which includes an evaluation and consideration of pollution prevention alternatives that may reduce or eliminate use of the air toxic at the source.

(a) The owner or operator must perform the TBACT determination and analysis by conducting a case-by-case TBACT determination under section (3), except as provided in section (2).

(b) The owner or operator must submit TBACT determination to DEQ for approval, and the owner or operator must pay the TBACT determination fee, as applicable, specified in OAR 340-216-8030 Table 3; and

(c) A TEU meets TBACT if DEQ approves the TBACT determination 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 schedule included in its Air Toxics Permit Attachment.

(2) Presumptive TBACT.

(a) Except as provided in subsection (b), if EPA has adopted a National Emission Standards for Hazardous Air Pollutants (NESHAP) for a source category and has completed a Risk and Technology Review for that source category and NESHAP, then the requirements stated in that NESHAP are presumed to meet TBACT for a TEU in the source category, and a case-by-case determination is not required if such NESHAP:

(A) Imposes an emission limitation or emission control requirement on the TEU; and

(B) Is in effect at the time of the TBACT determination.

(b) If DEQ determines that a more effective reduction measure exists for TEUs in the source category of any NESHAP, then the owner or operator must make a case-by-case TBACT determination under section (3).

(3) Case-by-Case TBACT determination. The owner or operator of the TEU must submit a proposed case-by-case TBACT determination to DEQ for review and approval. DEQ will review a case-by-case TBACT determination using the “Top Down” approach described in this section.

(a) The owner or operator of the TEU must first identify a comprehensive list of air pollution reduction measures, including emission controls and pollution prevention measures that may be applied to the TEU, and must list the reduction measures in descending order of air pollution reduction effectiveness, irrespective of technical feasibility, other environmental impacts or cost.

(b) Analysis of pollution prevention measures must include the following:

(A) A detailed review of facility and process level data related to the toxic chemicals of concern including:

(i) A process flow diagram with all the steps through which material inputs pass to form a product and the point at which toxics enter the system and leave the production unit, with identification of the inputs and outputs relevant to generation of pollutants;

(ii) Materials accounting which quantifies the total chemical inputs and outputs of a particular toxic chemical in a process, and ultimately, facility-wide usage;

(B) The identification of pollution prevention options that includes measures focused on the chemicals, by-products (outputs not in products) and processes that have been mapped and quantified. The categories of toxics pollution prevention options include the following:

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

- (ii) Product reformulation;
- (iii) Production process redesign or modification;
- (iv) Production process modernization;
- (v) Improved operations and maintenance;
- (vi) In-process recycling; and
- (vii) Inventory management controls;

(C)The technical screening and feasibility evaluation of toxics pollution prevention options including:

- (i) Performance needs for the application, process or product that contains the toxic chemical for which the pollution prevention option is being sought;
- (ii) Identification of the option as favorable with respect to performance by other industries;
- (iii) Availability as “off-the-shelf” technology with demonstrated successful use;
- (iv) Compatibility of the option with existing process technology;
- (v) Effects on product quality and compliance with customer specifications;
- (vi) Long term viability of the option;

(D)The economic feasibility evaluation of toxics pollution prevention options to determine all of the costs and savings associated with implementing the option, including:

- (i) Direct costs or savings (e.g., capital investment, operations and maintenance, annual chemical costs vs. per unit cost);
- (ii) Indirect costs or savings (e.g., reduced worker health and safety costs, compliance cost reductions, and lower waste and by-product management costs);
- (iii) Effects on future liability (e.g., liability insurance premium reductions);
- (iv) Non-monetized costs or benefits (e.g., improved company public image and community relations);
- (v) New revenue sources associated with this option (e.g., will there be new markets for modified products);

(c) The owner or operator must then start with the most effective reduction measure identified at the top of the list created under subsection (a), and must select that reduction measure unless the owner or operator demonstrates that it should be eliminated for one or more of the following reasons:

(A) Technical infeasibility. The justification must show that physical, chemical, or engineering principles, or technical difficulties would prevent the successful application of the reduction measure;

(B) Environmental impacts. The justification must show that the adverse environmental effects of the most effective reduction measure (i.e., effects on water or land, air toxics emissions, or increased environmental hazards), when compared with its air toxics emission reduction benefits, would make use of the most effective reduction measure unreasonable;

(C) Unreasonable cost. The justification must show that the total and incremental costs of the reduction measure to be eliminated from consideration on a cost per mass of pollutant reduced basis, would be unreasonable. The demonstration must comply with the following requirements:

(i) The cost of the reduction measure must be estimated in a manner consistent with that used in the EPA Air Pollution Control Cost Manual, Sixth Edition, EPA/452/B-02-001, January 2002, or a comparable analysis approved by DEQ;

(ii) The cost of the reduction measure may include the costs to retrofit the reduction measure to an existing TEU or to replace or upgrade an existing reduction measure, such as but not limited to costs to remove, dispose of or revise existing equipment, foundations or structural supports, to customize equipment to fit in the available space, or to overcome limited accessibility;

(iii) For air toxics that are also criteria pollutants, cost effectiveness of the reduction measure must be evaluated on the basis of the amount of criteria pollutant reduced by the measure;

(iv) If the air toxic or air toxics being considered are part of a mixed exhaust stream containing both air toxics and criteria pollutants that are not air toxics, the cost effectiveness of the reduction measure must be based on the tons per year of the mixed exhaust stream removed, not on the tons per year of the air toxics removed alone; and

(v) For air toxics that are not also criteria pollutants, the cost effectiveness will be reviewed by DEQ on a case-by-case basis; or

(D) Energy impacts. The justification must show that:

(i) The most effective reduction measure uses fuels that are not reliably available; or

(ii) The energy consumed by the most effective reduction measure is greater than the proposed measure(s), and that the extra energy used, when compared with the air toxics emission reduction benefits resulting from the most effective reduction measure, would make use of the most effective measure unreasonable.

(c) If the most effective reduction measure is eliminated from consideration, the applicant should move down the list created under subsection (a) to evaluate each successive reduction measure on the list, using the procedures described under subsection (b), until a reduction measure is reached that is not eliminated. This measure would constitute the case by case TBACT, as appropriate, for the TEU. If all measures are eliminated and DEQ agrees with this determination,

then the TEU is considered to meet TBACT, as appropriate, with no changes to the TEU required.

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

### **340-245-0340**

#### **Emissions Inventory and Modeling Information**

(1) Individual emissions inventory. For the purpose of DEQ evaluating risk, DEQ may require the owner or operator of any permitted or unpermitted source to submit an emissions inventory of all air toxics listed in OAR 340-245-8020 Table 2, upon written request. The owner or operator must submit the emissions inventory within 30 days of its receipt of the written request, unless DEQ allows additional time under section (3).

(2) Periodic state-wide emissions inventory. Not more frequently than once every three years, DEQ may require the owners and operators of all permitted and unpermitted sources that have previously submitted emissions inventories under section (1) to submit an updated air toxics emissions inventory. The reporting year will correspond with EPA's National Air Toxics Assessment reporting year (2020, 2023, 2026, etc.).

(a) If DEQ requires such updated inventories, DEQ will notify owners or operators of sources in writing; and

(b) The owner or operator of each source must submit its updated emissions inventory electronically to DEQ not later than 30 days after the date DEQ sends the written notice, unless additional time is allowed under section (3).

(3) The owner or operator may request, and DEQ may grant, up to an additional 60 days to submit the air toxics emissions inventory if the owner or operator can demonstrate to DEQ's satisfaction that additional time is needed to complete the inventory.

(4) Emissions inventory requirements.

(a) All sources must submit:

(A) A list of emission units or TEUs and activities that emit air toxics. The list of emission units, TEUs or activities that emit air toxics should not be limited to what is listed in a source's operating permit but should include all potential sources of air toxic emissions;

(B) A list of production, fuel and material usage rates for each emissions unit, TEU and activity for the following:

(i) The calendar year preceding the year DEQ's written request is made;

(ii) The projected maximum year. Use the projected maximum annual production and process rates that are used to calculate Plant Site Emissions Limits for permits or are used in the permit review report to estimate emissions whenever possible; and

(iii) The projected maximum day. Use knowledge of process to estimate the maximum daily production and process rates.

(C) Provide material balance information using Safety Data Sheets (formerly Material Safety Data Sheets) and/or Technical Data Sheets for solvent or coating materials used in any process; and

(D) Operating schedule (hours/day, days/year, seasonal variability) for the facility and/or emission units, TEUs and activities.

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

(A) A list of all air toxics emitted by the source;

(B) A list of all TEUs, and of all emissions units if TEUs are defined differently than emissions units;

(C) A list of any exempt TEUs;

(D) The amount of each air toxic emitted from each emission unit, TEU and activity, with the emission factors used or material balance information, as appropriate, for the following:

(i) The calendar year preceding the year DEQ's written request is made; and

(ii) The projected maximum year. Use the projected maximum annual production and process rates that are used to calculate Plant Site Emissions Limits for permits or are used in the permit review report to estimate emissions whenever possible, and include startup and shutdown emissions;

(iii) The projected maximum day. Use knowledge of process to estimate the maximum daily emissions, and include startup and shutdown emissions.

(E) Emissions must be reported as mass emitted per 24 hours for each air toxic that has a short-term RBC, and as mass emitted per year for each air toxic that has an annual RBC or has no RBC; and

(F) The name of each resource used to obtain air toxics emission factors or methodologies used to estimate emissions (e.g., AP-42 or WebFIRE, California Air Toxic Emission Factors, etc.).

(5) Approval of air toxics emissions inventory reports.

- (a) Within 60 days of receipt of the air toxics emissions inventory report, DEQ will confirm receipt in writing and conduct an initial review of the source's air toxics emissions inventory report.
- (b) DEQ will approve or reject the air toxics emissions inventory report and provide the owner or operator with written notice of DEQ's decision. DEQ's approval or rejection will be based on whether:
  - (A) The air toxics emissions inventory report was prepared consistent with section (4); and
  - (B) The information provided was complete and accurate.
- (c) Within 60 days of the date of notification by DEQ of air toxics emissions inventory report notice of deficiency, an owner or operator must revise and resubmit an air toxics emissions Inventory Report that corrects all identified deficiencies. DEQ will provide the owner or operator with written notice that it either:
  - (A) Approves the revised and resubmitted air toxics emissions inventory report; or
  - (B) Modifies the air toxics emissions inventory report as DEQ deems appropriate and approves it as modified.
- (6) Modeling information. For the purpose of any risk evaluation undertaken by DEQ, DEQ may require the owner or operator of any permitted or unpermitted source to submit the following information upon written request. The owner or operator must submit the requested information within 30 days of receipt of the request, unless DEQ allows additional time under section (3):
  - (a) A site map of the area where the source is located, with map scale, such that the area surrounding the source is shown for a distance of at least 5 km from the source's nearest property boundary. The map must show the source location and property boundary and all of the following within a distance of 2 km from the source's nearest property boundary: residential areas, schools, daycare centers, hospitals, nursing homes, and long-term care facilities;
  - (b) A plot plan of the source showing the locations of the following:
    - (A) The source's property boundary and locations of all buildings; and
    - (B) All emissions points and areas where fugitive emissions occur;
  - (c) The following physical information:
    - (A) For each emissions point, including points or areas where fugitive emissions are released, to the extent that the source can obtain the information without conducting emissions measurements:
      - (i) Latitude and longitude or Universal Transverse Mercator (UTM) coordinates;
      - (ii) Height of the release point or area above ground level;

(iii) Cross-sectional dimensions and shape of the release point or area, such as stack diameter, area of fugitive emissions, and horizontal and vertical dimensions of volume sources;

(iv) The direction in which emissions are released, and any obstructions that may affect the release point such as, but not limited to, rain caps, roof overhangs and building openings;

(v) Temperature of the emissions at the release point and whether the value is measured or estimated; and

(vi) Volumetric flow rate of the emissions at the release point and whether the value is measured or estimated.

(B) Building dimensions for structures that may influence downwash of emissions, including horizontal dimensions and heights above ground level to roof, terraces, and parapets; and

(d) Emissions data for all emission points from the source or modification. This data must represent potential to emit emission rates for the annual and 24-hour averaging times.

(7) Recordkeeping. The owner or operator of a source that provides DEQ with an emissions inventory under this rule must retain a record of the air toxics emissions inventory for five years from the date the inventory is submitted to DEQ.

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

### **340-245-0400**

#### **Toxicity Reference Value Hierarchy**

(1) This rule lists hierarchies of preference for toxicity information from governmental agencies that OHA and DEQ consider authoritative in terms of their scientific rigor and methods.

(a) OHA and DEQ will recommend adoption and use of toxicity reference values from the toxicity information published by the authoritative bodies listed in sections (2) and (3). Toxicity reference values will be recommended from the most preferred authoritative body that published a value for the air toxic in question upon DEQ's confirmation, in consultation with OHA, that such decision is supported by peer-reviewed science and is current.

(b) The toxicity reference values are used to develop RBCs; and

(c) DEQ will consult with OHA in the recommendation of toxicity reference values and development of RBCs.

(2) Chronic toxicity reference values.

(a) The authoritative bodies listed below that publish toxicity reference values are in order of preference for chronic toxicity reference values to develop chronic RBCs with averaging times of one year or longer:

(A) DEQ alone or in consultation with OHA or the Air Toxics Science Advisory Committee, including, for example, Ambient Benchmark Concentrations;

(B) EPA, Integrated Risk Information System (IRIS) Reference Concentrations (RfC) and Inhalation Unit Risk (IUR);

(C) EPA, Office of Superfund Remediation and Technology Innovation (OSRTI) provisional peer reviewed toxicity value (PPRTV) program (Reference Concentrations (RfCs) and Inhalation Unit Risks (IURs));

(D) United States Agency for Toxic Substances and Disease Registry (ATSDR), chronic inhalation Minimal Risk Level (MRL); and

(E) California's Office of Environmental Health Hazard Assessment (OEHHA), chronic Reference Exposure Level (REL) and Inhalation Unit Risk (IUR).

(b) To the extent possible, DEQ will generate a toxicity reference value for both cancer and noncancer health effects for each air toxic. Therefore, DEQ will follow the hierarchy in subsection (a) for cancer and noncancer toxicity reference values separately. DEQ will calculate toxicity reference values using 1 in 1 million as the target excess cancer risk level or a hazard quotient of 1 for noncancer toxicity reference values.

(3) Short-term toxicity reference values.

(a) The authoritative bodies listed below that publish toxicity reference values are in order of preference for short-term toxicity reference values used to develop short-term RBCs with a 24-hour averaging time:

(A) DEQ, alone or in consultation with OHA or the Air Toxics Science Advisory Committee;

(B) United States Agency for Toxic Substances and Disease Registry (ATSDR), Acute Minimal Risk Levels (MRLs);

(C) California's Office of Environmental Health Hazard Assessment (OEHHA), Acute Reference Exposure Level (REL); and

(D) United States Agency for Toxic Substances and Disease Registry (ATSDR), Intermediate Minimal Risk Levels (MRLs).

(b) If no short-term toxicity reference values are available from authoritative bodies listed in subsection (a), no short-term RBC will be recommended or proposed.

(c) If the short-term toxicity reference value derived under this section is lower than the chronic noncancer toxicity reference value derived under section (2), the chronic noncancer toxicity

reference value will be used for the short-term toxicity reference value because chronic noncancer toxicity reference values are generally more reliable.

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

### **340-245-0410**

#### **Calculation of Toxicity Reference Values and Risk-Based Concentrations**

##### (1) Toxicity Reference Values

(a) Cancer toxicity reference values (TRVs) based on a chemical-specific inhalation unit risk (IUR) factor will be calculated using the following equation:

$$TRV_{Cancer} = \frac{Target\ Risk}{IUR}$$

Where:

*Target Risk* = 1 in 1 million excess cancer risk

*IUR* = Inhalation Unit Risk (( $\mu\text{g}/\text{m}^3$ )<sup>-1</sup>) from the authoritative bodies listed in OAR 340-245-0400(2).

Cancer TRVs are shown in OAR 340-245-8030 Table 3.

(b) Noncancer toxicity reference value TRVs will be based directly on chemical-specific toxicity reference values:

$$TRV_{nc} = RfC_{nc}$$

$$TRV_a = RfC_a$$

Where:

*TRV<sub>nc</sub>* = Toxicity reference value, noncancer, chronic ( $\mu\text{g}/\text{m}^3$ )

*TRV<sub>a</sub>* = Toxicity reference value, noncancer, acute ( $\mu\text{g}/\text{m}^3$ )

*RfC<sub>nc</sub>* = Reference Concentration, chronic ( $\mu\text{g}/\text{m}^3$ ) from the authoritative bodies listed in OAR 340-245-0400(2), upon recommendation by DEQ, in consultation with OHA.

*RfC<sub>a</sub>* = Reference Concentration, acute ( $\mu\text{g}/\text{m}^3$ ) from the authoritative bodies listed in OAR 340-245-0400(2) or (3), upon recommendation by DEQ, in consultation with OHA.

Chronic and acute noncancer TRVs are provided in OAR 340-245-8030 Table 3.

## (2) Risk-based Concentrations

(a)(A) Residential RBCs will be calculated based on TRVs. Two modifications of the TRV will be required, if appropriate. If a chemical is identified by DEQ to require consideration of exposure pathways other than inhalation, a multipathway adjustment factor will be used. If a chemical is identified by EPA as a carcinogen acting by a mutagenic mode of action, and therefore having greater toxicity during early-life stages, an early-life adjustment factor will be used.

$$residRBCc = \frac{TRVc}{ELAFr * MPAFrc}$$

$$residRBCnc = \frac{TRVnc}{MPAFrnc}$$

$$acuteRBC = TRVa$$

Where:

*residRBCc* = Residential risk-based concentration for cancer effects ( $\mu\text{g}/\text{m}^3$ )

*residRBCnc* = Residential risk-based concentration for noncancer effects ( $\mu\text{g}/\text{m}^3$ )

*acuteRBC* = Short-term risk-based concentration ( $\mu\text{g}/\text{m}^3$ )

*TRVc* = Toxicity reference value for cancer effects ( $\mu\text{g}/\text{m}^3$ )

*TRVnc* = Toxicity reference value for noncancer effects ( $\mu\text{g}/\text{m}^3$ )

*TRVa* = Toxicity reference value for acute effects ( $\mu\text{g}/\text{m}^3$ )

*ELAFr* = Early-life adjustment factor, resident child (chemical specific, unitless)

*MPAFrc* = multipathway adjustment factor, resident cancer (chemical specific, unitless)

*MPAFrnc* = multipathway adjustment factor, resident noncancer (chemical specific, unitless)

(B) If multipathway or early-life considerations are not relevant for a chemical, MPAF and ELAF adjustments are not included in the calculation of RBCs. The adjustment factors DEQ will use to calculate RBCs are shown in OAR 340-245-8040 Table 4.

(b)(A) Non-residential Chronic RBCs will be calculated based on TRVs. Because chronic TRVs are based on continual exposure, adjustments for exposure time, frequency, and duration will be applied for non-residential exposure. Two additional modifications of the TRV will be required, if appropriate. If a chemical is identified by DEQ to require consideration of exposure pathways other than inhalation, a multipathway adjustment factor will be used. If a chemical is identified by EPA as a carcinogen acting by a mutagenic mode of action, and therefore having greater toxicity during early-life stages, an early-life adjustment factor will be used.

$$nrchildRBCc = \frac{TRVc * childNRAFc}{ELAFnr * MPAFnrc}$$

$$nrchildRBCnc = \frac{TRVnc * childNRAFnc}{MPAFnrnc}$$

$$workerRBCc = \frac{TRVc * workerNRAFc}{MPAFnrc}$$

$$workerRBCnc = \frac{TRVnc * workerNRAFnc}{MPAFnrc}$$

Where:

- nrcchildRBCc* = Nonresidential child risk-based concentration for cancer effects ( $\mu\text{g}/\text{m}^3$ )
- nrcchildRBCnc* = Nonresidential child risk-based concentration for noncancer effects ( $\mu\text{g}/\text{m}^3$ )
- workerRBCc* = Nonresidential worker risk-based concentration for cancer effects ( $\mu\text{g}/\text{m}^3$ )
- workerRBCnc* = Nonresidential worker risk-based concentration for noncancer effects ( $\mu\text{g}/\text{m}^3$ )
- TRVc* = Toxicity reference value for cancer effects ( $\mu\text{g}/\text{m}^3$ )
- TRVnc* = Toxicity reference value for noncancer effects ( $\mu\text{g}/\text{m}^3$ )
- ELAFnr* = Early-life adjustment factor, nonresident child (chemical specific, unitless)
- MPAFnrc* = multipathway adjustment factor, nonresident cancer (chemical specific, unitless)
- MPAFnrcnc* = multipathway adjustment factor, nonresident noncancer (chemical specific, unitless)
- childNRAFc* = Nonresident adjustment factor, child cancer (unitless)
- childNRAFnc* = Nonresident adjustment factor, child noncancer (unitless)
- workerNRAFc* = Nonresident adjustment factor, worker cancer (unitless)
- workerNRAFnc* = Nonresident adjustment factor, worker noncancer (unitless)

(B) If multipathway or early-life considerations are not relevant for a chemical, MPAF and ELAF adjustments are not included in the calculation of RBCs. The adjustment factors DEQ will use to calculate RBCs are shown in OAR 340-245-8040 Table 4.

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

### 340-245-0420

#### Process for Updating Lists of Regulated Air Toxics and Their Risk-Based Concentrations

##### (1) Purpose

(a) As industrial practices and toxicological sciences advance, it is important to have rules for Cleaner Air Oregon that allow for air quality regulation to continue to reflect the latest practices and science. The list of pollutants that are regulated and their RBCs represent one area where regulations will need regular updating to accommodate advancing science and practices.

(b) These rules include two lists of air toxics; OAR 340-245-8020 Table 2 contains air toxics that are for emissions reporting only, and OAR 340-245-8050 Table 5 contains air toxics for which RBCs are readily available for regulation as part of air permitting. The purpose of OAR 340-245-8020 Table 2 are to inform prioritization of RBC development and maintain a current and broad understanding of statewide emissions as industries and industrial practices change over time. The

purpose of OAR 340-245-8050 Table 5 is to ensure that impacts to public health from industrial air emissions are minimized.

(2) OAR 340-245-8020 Table 2, Air Toxics Reporting List

(a) The Air Toxics Reporting List is comprised of California Air Resources Board's Toxic Air Contaminant Identification List Appendix A-1, Washington's Table of ASIL, SQER and de minimis emission values, Oregon's Toxics Focus list, and EPA's Hazardous Air Pollutants list.

(b) Every three years starting from the effective date of this rule, DEQ, in consultation with OHA, will review the four lists in subsection (a) for changes and will propose to update the Air Toxics Reporting List in OAR 340-245-8020 Table 2 to capture changes in any of those four lists over the intervening three years.

(c) During the reviews of the Air Toxics Reporting List, DEQ may also propose to add or remove chemicals based on information gathered from past reporting, industry types in Oregon that are not in California or Washington, or OHA's and DEQ's knowledge of air toxics that may be of potential public health concern in Oregon.

(d) DEQ will propose updates to OAR 340-245-8020 through 340-245-8060 Table 2 through 6 through the rulemaking process.

(e) Owners or operators of sources must report emissions of any newly listed air toxic during the next periodic state-wide emissions inventory required in OAR 340-245-0340 following the new listing or earlier upon request by DEQ.

(3) OAR 340-245-8050 Table 5, Risk-Based Concentrations

(a) The list Risk-Based Concentrations is comprised of all air toxics from the Air Toxics Reporting List for which OHA and DEQ were able to find or set RBCs.

(b) Every three years starting from the effective date of this rule, DEQ, in consultation with OHA, will review the air toxics and toxicity reference values published by the authoritative bodies listed in OAR 340-245-0400 for changes since the previous review. DEQ will propose to:

(A) Add air toxics to OAR 340-245-8030 through 340-245-8060 Table 3 through 6 if toxicity reference values have been generated by authoritative bodies listed in OAR 340-245-0400 for air toxics on the Air Toxics Reporting List in OAR 340-245-8020 Table 2 from which RBCs can be set; or

(B) Remove air toxics from OAR 340-245-8030 through 340-245-8060 Tables 3 through 6, as applicable, if all authoritative bodies listed in OAR 340-245-0400 have rescinded toxicity reference values for that toxic air pollutant without providing a replacement.

(c) DEQ will propose updates to OAR 340-245-8030 through 340-245-8060 Tables 3 through 6 through the rulemaking process.

(4) DEQ will use the RBCs in OAR 340-245-8050 Table 5 in Source Risk Assessments for setting any necessary permit limits to limit cancer or noncancer risk.

(a) DEQ will review RBCs by following the same process that was used to establish the initial list using the hierarchy of authoritative bodies in OAR 340-245-0400 and will include in its review any updates by authoritative bodies in the intervening 3 years since the last review; and

(b) DEQ will propose updates to RBCs through the rulemaking process.

(5) Petitions to update the lists of regulated air toxics to add or remove air toxics from OAR 340-245-8020 Table 2 or revise an RBC in OAR 340-245-8050 Table 5 outside of or by different preference than the hierarchy listed in OAR 340-245-0400.

(a) Any person may request to update an RBC in OAR 340-245-8050 Table 5 by following these procedures:

(A) The request must be made in writing to DEQ;

(B) The request must be received by DEQ more than 18 months before the applicable triennial review described in section (2) or (3); and

(C) To be considered, the submission must include either:

(i) Inhalation toxicity reference values established by a federal agency or by another state; or

(ii) Publicly available and peer-reviewed toxicity information for the chemical that demonstrates a quantitative dose-response relationship in human or animal studies from which RBCs could be calculated.

(D) If a chemical being requested for review has no available toxicity information as described in paragraph (C) and is emitted at a rate of at least 1 pound per year in the state of Oregon, then DEQ will put the chemical on a formal "Wait List", to be held there until toxicity information for that chemical becomes available.

(b) To be considered for addition to the Air Toxics Reporting List in OAR 340-0245-8020 Table 2, the petitioner must provide evidence that:

(A) The chemical is emitted in the state of Oregon at a rate of at least 1 pound per year; and

(B) The chemical is toxic.

(c) Any person may request to remove a toxic air pollutant from the Air Toxics Reporting List in OAR 340-245-8020 Table 2 or the RBC list in OAR 340-245-8050 Table 5 by following these procedures:

(A) The request must be made in writing to DEQ;

(B) The request must be received by DEQ more than 18 months before the applicable triennial review described in section (2) or (3); and

(C) To be considered, the submission must demonstrate all authoritative bodies listed in OAR 340-245-0400 have rescinded toxicity reference values for that toxic air pollutant without providing a replacement.

(d) If DEQ receives a request to update an RBC or add or remove an air toxic from the Air Toxics Reporting List in OAR 340-245-8020 Table 2 or the RBC list in OAR 340-245-8050 Table 5 and the request is received less than 18 months before the applicable triennial review described in section (2) or (3), the request will be reviewed during the triennial review in subsection (3)(b).

(e) If DEQ, after consultation with OHA, determines that updates are warranted as a result of a petition, DEQ will propose updates to RBCs or additions or removals of air toxics to the Air Toxics Reporting List in OAR 340-245-8020 Table 2 or the RBC list in OAR 340-245-8050 Table 5 through the rulemaking process.

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

### **340-245-0500**

#### **Cleaner Air Oregon Fees**

(1) Any person required to obtain an Oregon Title V Operating Permit under OAR 340 division 218 must submit the annual CAO base fee as specified in OAR 340-220-0050(4) to DEQ.

(2) Any person required to obtain a Basic, General, Simple or Standard Air Contaminant Discharge Permit under OAR 340 division 216 must submit the annual CAO base fee to DEQ as specified in OAR 340-216-8020 Table 2 Part 2.

(3) Any person required to obtain an Air Toxics Permit Attachment must also submit the Air Toxics Permit Attachment fees specified in OAR 340-216-8030 Table 3 to DEQ.

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

## Revised Colored Art Glass Manufacturing Facility Rules

[NOTE: These are new rules based on OAR 340-244-9000 through 340-244-9090. Rules OAR 340-244-9000 through 340-244-9090 have been copied here and amended, except that OAR 340-244-9040 and 340-244-9090 have been omitted. Although these are new rules, they are shown in redline/strikeout to show the differences from the original rules in OAR 340-244-9000 through 9090.]

[NOTE: Application of these rules is subject to OAR 340-244-8990.]

### **340-24~~54~~-9000**

#### **Colored Art Glass Manufacturing Facility Rules; Applicability and Jurisdiction**

Notwithstanding OAR 340 division 246, OAR 340-24~~54~~-9000 through ~~340-245-9098~~0 apply to all facilities in the state of Oregon that:

(1) Manufacture glass from raw materials, or a combination of raw materials and cullet, for:

- (a) Use in art, architecture, interior design and other similar decorative applications, or
- (b) Use by glass manufacturers for use in art, architecture, interior design and other similar decorative applications; and

(2) Manufacture 5 tons per year or more of glass using raw materials that contain glassmaking HAPs.

(3) Subject to the requirements in this division and OAR 340-200-0010(3), LRAPA is designated by the EQC to implement OAR 340-24~~45~~-9000 through 909~~50~~ within its area of jurisdiction.

**NOTE: This rule was moved verbatim from OAR 340-244-9000 and renumbered and amended.**

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9000

### **340-24~~54~~-9010**

#### **Colored Art Glass Manufacturing Facility Rules; Definitions**

The definitions in OAR 340-200-0020 and this rule apply to OAR 340-24~~50~~<sup>54</sup>-9000 through 909~~50~~. If the same term is defined in this rule and 340-200-0020, the definition in this rule applies to this division.

(1) “Colored Art Glass Manufacturer” or “CAGM” means a facility that meets the applicability requirements in OAR 340-24~~50~~<sup>54</sup>-9000 and refers to the owner or operator of such a facility when the context requires.

(2) “Chromium III” means chromium in the +3 oxidation state, also known as trivalent chromium.

(3) “Chromium VI” means chromium in the +6 oxidation state, also known as hexavalent chromium.

(4) “Chromium”, without a following roman numeral, means total chromium.

(5) “Controlled” means the glassmaking furnace emissions are treated by an emission control device approved by DEQ.

(6) “Cullet” means pieces of finished glass that, when mixed with raw materials and charged to a glassmaking furnace, is used to produce new glass. Cullet does not include frit as defined in subsection (9)(a). Cullet is not considered to be a raw material.

(7) “Emission control device” means control device as defined in OAR 340 Division 200.

(8) “Finished glass” means the final glass product that results from melting and refining materials in a glassmaking furnace. Finished glass that has been remelted without the addition of raw materials is still finished glass.

(9) “Frit” means both of the following:

(a) Granules of glassified or vitrified material that is not made from finished glass, and which contains a higher proportion of glassmaking HAP than would be found in a finished glass. The purpose of such material includes, but is not limited to, making powdered glassmaking HAPs safer to handle by combining them with silica or other oxides.

(b) Granules of crushed finished glass.

(10) “Glassmaking furnace” means a refractory-lined vessel in which raw materials are charged and melted at high temperature to produce molten glass.

(11) “Glassmaking HAP” means arsenic, cadmium, chromium, lead, manganese, nickel or selenium in any form, such as the pure chemical element, in compounds or mixed with other materials.

(12) “Raw material” means:

(a) Substances that are intentionally added to a glass manufacturing batch and melted in a glassmaking furnace to produce glass, including but not limited to:

(A) Minerals, such as silica sand, limestone, and dolomite;

(B) Inorganic chemical compounds, such as soda ash (sodium carbonate), salt cake (sodium sulfate), and potash (potassium carbonate);

(C) Oxides and other compounds of chemical elements, such as lead oxide, chromium oxide, and sodium antimonate; and

(D) Ores of chemical elements, such as chromite and pyrolusite.

(b) Glassmaking HAPs that are naturally-occurring trace constituents or contaminants of other substances are not considered to be raw materials.

(c) Raw material includes materials that contain glassmaking HAPs in amounts that materially affect the properties of the finished product, such as its color, texture or bubble content. Such materials may be powdered, frit, or in some other form. For the purpose of this definition, frit as described in subsection (9)(a) is a raw material, but frit as described in subsection (9)(b) is not a raw material.

(d) Cullet and material that is recovered from a glassmaking furnace control device for recycling into the glass formulation are not considered to be raw materials.

(13) “Tier 1 CAGM” means a CAGM that produces at least 5 tons per year, but less than 100 tons per year, of glass using raw materials that contain glassmaking HAPs in glassmaking furnaces that are only electrically heated.

(14) “Tier 2 CAGM” means:

(a) A CAGM that produces 5 tons per year or more of glass using raw materials that contain glassmaking HAPs in glassmaking furnaces, at least one of which is fuel-heated or combination fuel- and electrically-heated; or

(b) Produces 100 tons per year or more of glass using raw materials that contain glassmaking HAPs in any type of glassmaking furnace.

(15) “Uncontrolled” means the glassmaking furnace emissions are not treated by an emission control device approved by DEQ.

(16) “Week” means Sunday through Saturday.

**NOTE: This rule was moved verbatim from OAR 340-244-9010 and renumbered and amended.**

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9010

### **340-2454-9015**

#### **Colored Art Glass Manufacturing Facility Rules; Compliance Extensions**

A Tier 1 CAGM may request, and DEQ may grant, one or more extensions, not to exceed a total of 12 months, to the compliance date for installation of emission control systems if the CAGM cannot meet the compliance date for reasons beyond its reasonable control. A Tier 1 CAGM that has been granted an extension:

- (1) Is allowed to operate without the emission control device required by OAR 340-224-9050 until the required emission control device is installed and operational, or the extension expires, whichever is earlier; and
- (2) Must comply with OAR 340-2454-9020 and 340-245-9060(1) as applicable.

**NOTE: This rule was moved verbatim from OAR 340-244-9015 and renumbered and amended.**

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9015

### **340-2454-9020**

#### **Colored Art Glass Manufacturing Facility Rules; Permit Required**

(1) Not later than December 1, 2016, if located within the Portland AQMA, and not later than April 1, 2017, if located outside the Portland AQMA, all CAGMs not otherwise subject to a permitting requirement must apply for a permit under OAR 340-216-8020 Table 2, Part B, category #84.

(2) A CAGM that applies for a permit on or before the required date is not in violation of OAR 340-216-0020(3).

(3) CAGMs constructed after September 1, 2016 must obtain a permit prior to construction.

**NOTE: This rule was moved verbatim from OAR 340-244-9020 and renumbered.**

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9020

### **340-2454-9030**

#### **Colored Art Glass Manufacturing Facility Rules; Requirements That Apply To Tier 2 CAGMs**

- (1) Tier 2 CAGMs located within the Portland AQMA may not use raw materials containing arsenic, cadmium, chromium, lead, manganese or nickel except in glassmaking furnaces that use an emission control device that meets the requirements of OAR 340-2454-9070.
- (2) Effective January 1, 2017, Tier 2 CAGMs located within the Portland AQMA may not use raw materials containing selenium except in glassmaking furnaces that use an emission control device that meets the requirements of OAR 340-2454-9070.
- (3) Tier 2 CAGMs located outside the Portland AQMA may not use raw materials containing arsenic, cadmium or chromium VI except in glassmaking furnaces that use an emission control device that meets the requirements of OAR 340-2454-9070.
- (4) Effective April 1, 2017, Tier 2 CAGMs located outside the Portland AQMA may not use raw materials containing chromium, lead, manganese, nickel or selenium except in glassmaking furnaces that use an emission control device that meets the requirements of OAR 340-2454-9070.

**NOTE: This rule was moved verbatim from OAR 340-244-9030 and renumbered and amended.**

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9030

**NOTE: OAR 340-244-9040 was not moved to this division. This note to be deleted in the version that goes to the Secretary of State.**

### **340-2454-9050**

#### **Colored Art Glass Manufacturing Facility Rules; Requirements That Apply To Tier 1 CAGMs**

(1) No later than October 1, 2016, if located within the Portland AQMA, and April 1, 2017, if located outside the Portland AQMA, each Tier 1 CAGM must comply with subsection (a), ~~(b)~~ or ~~(be)~~ for each glassmaking furnace or group of glassmaking furnaces that use raw material containing arsenic, cadmium, chromium, lead, manganese or nickel:

(a) Install an emission control device that meets the emission control device requirements in OAR 340-24~~54~~-9070; or

~~(b) Demonstrate that the glassmaking furnace or group of glassmaking furnaces meets the exemption in section (3) for arsenic, cadmium, chromium, lead, manganese or nickel; or~~

~~(be)~~ Request a permit condition that prohibits the use of arsenic, cadmium, chromium, lead, manganese or nickel in the glassmaking furnace or group of glassmaking furnaces, and comply with that condition.

(2) No later than January 1, 2017, if located within the Portland AQMA, and April 1, 2017, if located outside the Portland AQMA, each Tier 1 CAGM must comply with subsection (a), ~~(b)~~ or ~~(be)~~ for each glassmaking furnace or group of glassmaking furnaces that use raw material containing selenium:

(a) Install an emission control device that meets the emission control device requirements in OAR 340-24~~54~~-9070; or

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

~~(be)~~ Request a permit condition that prohibits the use of selenium in the glassmaking furnace or group of glassmaking furnaces, and comply with that condition.

~~(3) A Tier 1 CAGM is exempt from the requirement to install emission controls under subsections (1)(a) or (2)(a) on a glassmaking furnace or group of glassmaking furnaces if that CAGM meets the requirements of subsection (a) for each of the individual glassmaking HAPs listed in paragraphs (a)(A) through (a)(G) below. This exemption is not allowed for a glassmaking furnace or group of glassmaking furnaces that use raw materials containing chromium VI.~~

~~(a) The CAGM shows through source testing and dispersion modeling if necessary, following the requirements of subsections (b) and (c), that the glassmaking HAP concentrations modeled at the nearest sensitive receptor do not exceed the applicable concentration listed in paragraphs (A) through (G). For chromium VI resulting from the use of chromium III, the CAGM may source test for and model chromium VI, or may source test for and model total chromium in lieu of chromium VI, to demonstrate that the ambient concentration is below the concentration listed in paragraph (C). If the modeled total chromium ambient concentration exceeds the concentration listed in paragraph (C), then the CAGM may conduct an additional source test to measure chromium VI and model to show that the ambient concentration of chromium VI does not exceed the concentration listed in paragraph (C).~~

- ~~(A) Arsenic, 0.2 nanograms per cubic meter annual average;~~
  - ~~(B) Cadmium, 0.6 nanograms per cubic meter annual average;~~
  - ~~(C) Chromium VI, 0.08 nanograms per cubic meter annual average;~~
  - ~~(D) Lead, 15 nanograms per cubic meter annual average;~~
  - ~~(E) Manganese, 90 nanograms per cubic meter annual average;~~
  - ~~(F) Nickel, 4 nanograms per cubic meter annual average;~~
  - ~~(G) Selenium, at a concentration that the CAGM demonstrates to the satisfaction of the Director is adequate to protect members of the public from suffering adverse health effects. The Director shall consult with the Oregon Health Authority when considering whether a proposed concentration will be adequately protective.~~
- ~~(b) Source testing for the purpose of demonstrating the exemption in this section must be performed as follows:~~
- ~~(A) Test using DEQ approved protocols and methods for each glassmaking HAP listed in paragraphs (a)(A) through (a)(G) that the Tier 1 CAGM intends to use.~~
  - ~~(B) Test for particulate matter using DEQ Method 5 or equivalent; HAPs using EPA Method 29, CARB Method M-436 or an equivalent method approved by DEQ; and if the Tier 1 CAGM chooses, chromium VI using a method approved by DEQ.~~
  - ~~(C) Submit a source test plan to DEQ for approval at least 30 days before the test date.~~
  - ~~(D) For each glassmaking HAP to be tested for, test while making a glass formulation that DEQ agrees has the highest potential emissions of that glassmaking HAP. More than one source test may be required if a single glass formulation cannot meet this requirement for all glassmaking HAPs to be tested for.~~
  - ~~(E) Keep records of the amount of each glassmaking HAP regulated under this rule used in the formulations that are produced during the source test runs, as well as other operational parameters identified in the source test plan.~~
- ~~(c) Dispersion modeling for the purpose of demonstrating the exemption in this section is not required for any glassmaking HAP that the source testing under subsection (b) shows is not greater than the applicable concentration listed in paragraphs (a)(A) through (a)(G); otherwise, dispersion modeling must be performed as follows:~~
- ~~(A) Submit a modeling protocol for DEQ approval;~~
  - ~~(B) Use the EPA approved model AERSCREEN or other EPA approved model;~~

~~(C) Use the maximum emission rate for each glassmaking HAP to be modeled as determined by the source testing required by subsection (b); and~~

~~(D) Model the ambient concentration at the nearest sensitive exposure location approved by DEQ. Sensitive exposure locations include, but are not limited to: residences, hospitals, schools, daycare facilities, elderly housing and convalescent facilities.~~

NOTE: This rule was moved verbatim from OAR 340-244-9050 and renumbered and amended.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9050

### **340-2454-9060**

#### **Colored Art Glass Manufacturing Facility Rules; Operating Restrictions That Apply To Tier 1 CAGMs**

(1) Tier 1 CAGMs may not use raw materials that contain chromium VI in any uncontrolled glassmaking furnace.

(2) Tier 1 CAGMs are not restricted on the raw materials that may be used in glassmaking furnaces that are controlled by an emission control device approved by DEQ.

NOTE: This rule was moved verbatim from OAR 340-244-9060 and renumbered.

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9060

### **340-2454-9070**

#### **Colored Art Glass Manufacturing Facility Rules; Emission Control Device Requirements**

(1) CAGMs must comply with the requirements in subsection (a) or (b), as applicable, for each emission control device used to comply with this rule.

(a) Tier 1 CAGMs must comply with one of the requirements in paragraphs (A), (B) or (C):

(A) Conduct a source test as required under section (3) and demonstrate that the emission control device does not emit particulate matter in excess of 0.005 grains per dry standard cubic foot as measured by EPA Method 5 or an equivalent method approved by DEQ.

(B) If the emission control system is a fabric filter (baghouse), install a bag leak detection system that meets the requirements of section (4).

(C) If the emission control system is a fabric filter (baghouse), install an afterfilter that meets the requirements of section (5).

(b) Tier 2 CAGMs must:

(A) Conduct a source test as required under section (3) and demonstrate that the emission control device does not emit particulate matter in excess of 0.005 grains per dry standard cubic foot as measured by EPA Method 5 or an equivalent method approved by DEQ; and

(B) If a fabric filter (baghouse) is used, install either a bag leak detection system that meets the requirements of section (4) or an afterfilter that meets the requirements of section (5).

(2) Emission control device requirements:

(a) A CAGM must obtain DEQ approval of the design of all emission control devices before installation, as provided in this rule.

(b) A CAGM must submit a Notice of Intent to Construct as required by OAR 340-210-0205 through 340-210-0250 no later than 15 days before the date installation begins. If DEQ does not deny or approve the Notice of Intent to Construct within 10 days after receiving the Notice, the Notice will be deemed to be approved.

(c) Emission control devices may control emissions from more than one glassmaking furnace.

(d) Each emission control device must be equipped with the following monitoring equipment:

(A) An inlet temperature monitoring device;

(B) A differential pressure monitoring device if the emission control device is a baghouse; and

(C) Any other monitoring device or devices specified in DEQ's approval of the Notice of Intent to Construct.

(e) Each emission control device must be equipped with inlet ducting that provides the following:

(A) Sufficient cooling of exhaust gases to no more than the maximum design inlet temperature under worst-case conditions; and

(B) Provision for inlet emissions testing, including sufficient duct diameter, sample ports, undisturbed flow conditions, and access for testing.

(f) Each emission control device must be equipped with outlet ducting that provides for outlet emissions testing, including sufficient duct diameter, sample ports, undisturbed flow conditions, and access for testing.

(g) After commencing operation of any emission control device, the CAGM must monitor the emission control device as required by OAR 340-24~~54~~-9080.

(3) If source testing is conducted under section (1), the CAGM must perform the following source testing on at least one emission control device. ~~Source testing done under OAR 340-2454-9040(3)(a) may be used in whole or in part to comply with this requirement.~~

(a) Within 60 days of commencing operation of the emission control devices, test control device outlet for particulate matter using DEQ Method 5 or equivalent method;

(b) The emission control device to be tested must be approved by DEQ;

(c) A source test plan must be submitted at least 30 days before conducting the source test; and

(d) The source test plan must be approved by DEQ before conducting the source test.

(4) If a bag leak detection system is installed under section (1), the requirements for the bag leak detection system are:

(a) The bag leak detection system must be installed and operational as soon as possible but not more than 90 days after the baghouse becomes operational or 90 days after the effective date of the rule, whichever is later.

(b) Each bag leak detection system must meet the specifications and requirements in paragraphs (A) through (H).

(A) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 1 milligram per dry standard cubic meter (0.00044 grains per actual cubic foot) or less.

(B) The bag leak detection system sensor must provide output of relative PM loadings. The owner or operator must continuously record the output from the bag leak detection system using electronic or other means (e.g., using a strip chart recorder or a data logger).

(C) The bag leak detection system must be equipped with an alarm system that will sound when the system detects an increase in relative particulate loading over the alarm set point established according to paragraph (D), and the alarm must be located such that it can be heard by the appropriate plant personnel.

(D) In the initial adjustment of the bag leak detection system, the CAGM must establish, at a minimum, the baseline output by adjusting the sensitivity (range) and the averaging period of the device, the alarm set points, and the alarm delay time.

(E) Following initial adjustment, the CAGM may not adjust the averaging period, alarm set point, or alarm delay time without approval from DEQ except as provided in paragraph (F).

(F) Once per quarter, the CAGM may adjust the sensitivity of the bag leak detection system to account for seasonal effects, including temperature and humidity, according to the procedures identified in the site-specific monitoring plan required by OAR 340-224-9080(4).

(G) The CAGM must install the bag leak detection sensor downstream of the fabric filter.

(H) Where multiple bag leak detectors are required, the system's instrumentation and alarm may be shared among detectors.

(5) If an afterfilter is installed under section (1), the requirements for the afterfilter are:

(a) The afterfilter must be installed and operational as soon as possible but not more than 120 days after the baghouse becomes operational or 120 days after the effective date of the rule, whichever is later;

(b) The afterfilter must filter the entire exhaust flow from the fabric filter (baghouse); and

(c) The afterfilter must be equipped with:

(A) HEPA filters that have a Minimum Efficiency Reporting Value of 17 (MERV 17) or higher per American National Standards Institute (ANSI) Standard 52.2; and

(B) A differential pressure monitoring device.

**NOTE: This rule was moved verbatim from OAR 340-244-9070 and renumbered and amended.**

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 6-2016(Temp), f. & cert. ef. 5-6-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9070

**340-2454-9080**

### **Colored Art Glass Manufacturing Facility Rules; Emission Control Device Monitoring**

(1) Each Tier 1 CAGM must perform the following monitoring on each emission control device it uses to comply with this rule:

(a) At least once each week, observe and record the inlet temperature and the fabric filter (baghouse) differential pressure and afterfilter differential pressure (as applicable); and

(b) At least once every 12 months:

(A) Inspect the ductwork and emission control device housing for leakage;

(B) Inspect the interior of the emission control device for structural integrity and, if a fabric filter (baghouse) is used, to determine the condition of the fabric filter; and

(C) Record the date, time and results of the inspection.

(2) Each Tier 2 CAGM must perform the following monitoring on each emission control device used to comply with this rule:

(a) At least once each day, observe and record the inlet temperature and the fabric filter (baghouse) differential pressure and afterfilter differential pressure (as applicable); and

(b) At least once every 12 months:

(A) Inspect the ductwork and emission control device housing for leakage;

(B) Inspect the interior of the emission control device for structural integrity and, and if a fabric filter (baghouse) is used, to determine the condition of the fabric filter; and

(C) Record the date, time and results of the inspection.

(3) CAGMs must observe and record any parameters specified in a DEQ approval of the Notice of Intent to Construct applicable to a control device.

(4) If a bag leak detection system is used, the CAGM must develop and submit to DEQ for approval a site-specific monitoring plan for each bag leak detection system. The CAGM must operate and maintain the bag leak detection system according to the site-specific monitoring plan at all times. Each monitoring plan must describe the items in subsections (a) through (f).

(a) Installation of the bag leak detection system;

(b) Initial and periodic adjustment of the bag leak detection system, including how the alarm set-point will be established;

(c) Operation of the bag leak detection system, including quality assurance procedures;

(d) How the bag leak detection system will be maintained, including a routine maintenance schedule and spare parts inventory list;

(e) How the bag leak detection system output will be recorded and stored; and

(f) Corrective action procedures as specified in section (5). In approving the site-specific monitoring plan, DEQ may allow owners and operators more than 3 hours to alleviate a

specific condition that causes an alarm if the owner or operator identifies in the monitoring plan this specific condition as one that could lead to an alarm, adequately explains why it is not feasible to alleviate this condition within 3 hours of the time the alarm occurs, and demonstrates that the requested time will ensure alleviation of this condition as expeditiously as practicable.

(5) For each bag leak detection system, the CAGM must initiate procedures to determine the cause of every alarm within 1 hour of the alarm. Except as provided in subsection (4)(f), the CAGM must alleviate the cause of the alarm within 3 hours of the alarm by taking all necessary corrective actions. Corrective actions may include, but are not limited to the following:

(a) Inspecting the fabric filter for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in PM emissions;

(b) Sealing off defective bags or filter media;

(c) Replacing defective bags or filter media or otherwise repairing the control device;

(d) Sealing off a defective fabric filter compartment;

(e) Cleaning the bag leak detection system probe or otherwise repairing the bag leak detection system; and

(f) Shutting down the process producing the PM emissions.

(6) For each bag leak detection system, the CAGM must keep the following records:

(a) Records of the bag leak detection system output;

(b) Records of bag leak detection system adjustments, including the date and time of the adjustment, the initial bag leak detection system settings, and the final bag leak detection system settings; and

(c) The date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, the cause of the alarm, an explanation of the actions taken, the date and time the cause of the alarm was alleviated, and whether the alarm was alleviated within 3 hours of the alarm.

**NOTE: This rule was moved verbatim from OAR 340-244-9080 and renumbered.**

Stat. Auth.: ORS 468.020, 468A.025, & 468A.040

Stats. Implemented: ORS 468A.025, & 468A.040

Hist.: DEQ 4-2016(Temp), f. & cert. ef. 4-21-16 thru 10-17-16; DEQ 10-2016, f. & cert. ef. 10-3-16, Renumbered from 340-244-9080

**NOTE: OAR 340-244-9090 was not moved to this division. This note to be deleted in the version that goes to the Secretary of State.**