

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 12

ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

340-012-0030₂

Definitions

All terms used in this division have the meaning given to the term in the appropriate substantive statute or rule or, in the absence of such definition, their common and ordinary meaning unless otherwise required by context or defined below:

- (1) "Alleged Violation" means any violation cited in a written notice issued by DEQ or other government agency.
- (2) "Class I Equivalent," which is used to determine the value of the "P" factor in the civil penalty formula, means two Class II violations, one Class II and two Class III violations, or three Class III violations.
- (3) "Commission" means the Environmental Quality Commission.
- (4) "Compliance" means meeting the requirements of the applicable statutes, and commission or DEQ rules, permits, permit attachments or orders.
- (5) "Conduct" means an act or omission.
- (6) "Director" means the director of DEQ or the director's authorized deputies or officers.
- (7) "DEQ" means the Department of Environmental Quality.
- (8) "Expedited Enforcement Offer" (EEO) means a written offer by DEQ to settle an alleged violation pursuant to in accordance with the expedited procedure described in OAR 340-012-0170(2).
- (9) "Field Penalty" as used in this division, has the meaning given that term in OAR chapter 340, division 150.
- (10) "Final Order and Stipulated Penalty Demand Notice" means a written notice issued to a respondent by DEQ demanding payment of a stipulated penalty pursuant to as required by the terms of an agreement entered into between the respondent and DEQ.
- (11) "Flagrant" or "flagrantly" means the respondent had actual knowledge that the conduct was unlawful and consciously set out to commit the violation.

(12) "Formal Enforcement Action" (FEA) means a proceeding initiated by DEQ that entitles a person to a contested case hearing or that settles such entitlement, including, but not limited to, Notices of Civil Penalty Assessment and Order, Final Order and Stipulated Penalty Demand Notices, department or commission orders originating with the Office of Compliance and Enforcement, Mutual Agreement and Orders, accepted Expedited Enforcement Offers, Field Penalties, and other consent orders.

(13) "Intentional" means the respondent acted with a conscious objective to cause the result of the conduct.

(14) "Magnitude of the Violation" means the extent and effects of a respondent's deviation from statutory requirements, rules, standards, permits or orders.

(15) "Negligence" or "Negligent" means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation.

(16) "Notice of Civil Penalty Assessment and Order" means a notice provided under OAR 137-003-0505 to notify a person that DEQ has initiated a formal enforcement action that includes a financial penalty and may include an order to comply.

(17) "Pre-Enforcement Notice" (PEN) means an informal written notice of an alleged violation that DEQ is considering for formal enforcement.

(18) "Person" includes, but is not limited to, individuals, corporations, associations, firms, partnerships, trusts, joint stock companies, public and municipal corporations, political subdivisions, states and their agencies, and the federal government and its agencies.

(19) "Prior Significant Action" (PSA) means any violation cited in an FEA, with or without admission of a violation, that becomes final by payment of a civil penalty, by a final order of the commission or DEQ, or by judgment of a court.

(20) "Reckless" or "Recklessly" means the respondent consciously disregarded a substantial and unjustifiable risk that the result would occur or that the circumstance existed. The risk must be of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation.

(21) "Residential Owner-Occupant" means the natural person who owns or otherwise possesses a single family dwelling unit, and who occupies that dwelling at the time of the alleged violation. The violation must involve or relate to the normal uses of a dwelling unit.

(22) "Respondent" means the person named in a formal enforcement action (FEA).

(23) "Systematic" means any violation that occurred or occurs on a regular basis.

(24) "Violation" means a transgression of any statute, rule, order, license, permit, permit attachment, or any part thereof and includes both acts and omissions.

(25) "Warning Letter" (WL) means an informal written notice of an alleged violation for which formal enforcement is not anticipated.

(26) "Willful" means the respondent had a conscious objective to cause the result of the conduct and the respondent knew or had reason to know that the result was not lawful.

Stat. Auth.: ORS 468.020 & 468.130

Stats. Implemented: ORS 459.376, 459.995, 465.900, 468.090-140, 466.880 - 466.895, 468.996 - 468.997, 468A.990 -468A.992 & 468B.220

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 22-1984, f. & ef. 11-8-84; DEQ 22-1988, f. & cert. ef. 9-14-88; DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0053,

Classification of Violations that Apply to all Programs

(1) Class I:

(a) Violating a requirement or condition of a commission or department order, consent order, agreement, consent judgment (formerly called judicial consent decree) or compliance schedule contained in a permit or permit attachment;

(b) Submitting false, inaccurate or incomplete information to DEQ where the submittal masked a violation, caused environmental harm, or caused DEQ to misinterpret any substantive fact;

(c) Failing to provide access to premises or records as required by statute, permit, order, consent order, agreement or consent judgment (formerly called judicial consent decree); or

(d) Using fraud or deceit to obtain DEQ approval, permit, permit attachment, certification, or license.

(2) Class II: Violating any otherwise unclassified requirement.

Stat. Auth.: ORS 468.020 & 468.130

Stats. Implemented: ORS 459.376, 459.995, 465.900, 465.992, 466.990 - 466.994, 468.090 - 468.140 & 468B.450

Hist.: DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 1-2014, f. & cert. ef. 1-6-14

340-012-0054,

Air Quality Classification of Violations

(1) **Class I:**

(a) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;

(b) Constructing a new source, as defined in OAR 340-245-0020, without first obtaining a required Air Contaminant Discharge Permit required under OAR 340-245-0005 through 340-245-8050 or without complying with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050;

(c) Failing to conduct a source risk assessment, as required under OAR 340-245-0050;

(d) Modifying a source in such a way as to require a permit modification from DEQ that would increase risk above permitted levels without first obtaining such approval from DEQ;

~~(e)~~ Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit;

(f) Operating an existing source, as defined in OAR 340-245-0020, after a submittal deadline under OAR 340-245-0030 without having submitted a complete application for a Toxic Air Contaminant Permit Addendum required under OAR 340-245-0005 through 340-245-8050;

~~(g)~~ Exceeding a Plant Site Emission Limit (PSEL);

(h) Exceeding a Source Risk Limit applicable to a source under OAR 340-245-0100;

~~(i)~~ Failing to install control equipment or meet emission limits, operating limits, work practice requirements, or performance standards as required by New Source Performance Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;

~~(j)~~ Exceeding a hazardous air pollutant emission limitation;

~~(k)~~ Failing to comply with an Emergency Action Plan;

~~(l)~~ Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard, that was established ~~pursuant to~~under New Source Review/Prevention of Significant Deterioration (NSR/PSD);

~~(m)~~ Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in OAR 340-200-0020;

(n) Exceeding an emission limit or violating an operational limit, process limit, or work practice requirement that was established to limit risk or emissions to avoid exceeding an applicable Risk Action Level or other requirement under OAR 340-245-0005 through 340-245-8050;

(oi) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in OAR 340-200-0020, when the violation was detected during a reference method stack test;

(pj) Failing to perform testing or monitoring, required by a permit, permit attachment, rule or order, that results in failure to show compliance with a Plant Site Emission Limit (~~PSEL~~) or with an emission limitation or a performance standard ~~set pursuant to established under~~ New Source Review/Prevention of Significant Deterioration (~~NSR/PSD~~), National Emission Standards for Hazardous Air Pollutants (~~NESHAP~~), New Source Performance Standards (~~NSPS~~), Reasonably Available Control Technology (~~RACT~~), Best Achievable Available Control Technology (~~BACT~~), Maximum Achievable Control Technology (~~MACT~~), Typically Achievable Control Technology (~~TACT~~), Lowest Achievable Emission Rate (~~LAER~~), Toxics Best Available Control Technology, Toxics Lowest Achievable Emission Rate, or adopted ~~pursuant to under~~ section 111(d) of the Federal Clean Air Act;

(qk) Causing emissions that are a hazard to public safety;

(rl) Violating a work practice requirement for asbestos abatement projects;

(sm) Improperly storing or openly accumulating friable asbestos material or asbestos-containing waste material;

(tn) Conducting an asbestos abatement project, by a person not licensed as an asbestos abatement contractor;

(ue) Violating an OAR 340 division 248 disposal requirement for asbestos-containing waste material;

(vp) Failing to hire a licensed contractor to conduct an asbestos abatement project;

(wq) Openly burning materials which are prohibited from being open burned anywhere in the state by OAR 340-264-0060(3), or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(1);

(x#) Failing to install certified vapor recovery equipment;

(ys) Delivering for sale a noncompliant vehicle by an automobile manufacturer in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

(z#) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257;

(aa#) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements set forth in OAR 340 division 257;

(bb#) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257;

~~(ccw)~~ Selling, leasing, or renting a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257; or

~~(ddx)~~ Failing to comply with any of the clean fuel standards set forth in OAR 340-253-0100(6), OAR 340-253-8010 (Table 1) and OAR 340-253-8020 (Table 2).

(2) **Class II:**

(a) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP), ACDP attachment, or registration without first obtaining such permit or registration, unless otherwise classified;

(b) Violating the terms or conditions of a permit, permit attachment or license, unless otherwise classified;

(c) Modifying a source in such a way as to require a permit or permit attachment modification from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Exceeding an opacity limit, unless otherwise classified;

(e) Exceeding a Volatile Organic Compound (VOC) emission standard, operational requirement, control requirement or VOC content limitation established by OAR 340 division 232;

(f) Failing to timely submit a complete ACDP annual report or permit attachment annual report;

(g) Failing to timely submit a certification, report, or plan as required by rule, ~~or permit~~ or permit attachment, unless otherwise classified;

(h) Failing to timely submit a complete permit application, ACDP attachment application, or permit renewal application;

(i) Failing to submit a timely and complete toxic air contaminant emissions inventory as required under OAR 340-245-0005 through 340-245-8050;

~~(ji)~~ Failing to comply with the open burning requirements for commercial, construction, demolition, or industrial wastes in violation of OAR 340-264-0080 through 0180;

~~(kj)~~ Failing to comply with open burning requirements in violation of any provision of OAR 340 division 264, unless otherwise classified; or burning materials in a solid fuel burning device, fireplace, trash burner or other device as prohibited by OAR 340-262-0900(2).

~~(lk)~~ Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of a stage I or stage II vapor collection system;

~~(ml)~~ Failing to provide timely, accurate or complete notification of an asbestos abatement project;

~~(nm)~~ Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project;

~~(on)~~ Violating on road motor vehicle refinishing rules contained in OAR 340-242-0620; or

~~(pe)~~ Failing to comply with an Oregon Low Emission Vehicle reporting, notification, or warranty requirement set forth in OAR division 257;

~~(qp)~~ Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is a producer or importer of blendstocks, as those terms are defined in OAR 340-253-0040;

~~(rq)~~ Failing to submit a broker designation form under OAR 340-253-0100(3) and (4)(c);

~~(sf)~~ Failing to keep records under OAR 340-253-0600 when the records relate to obtaining a carbon intensity under OAR 340-253-0450; or

~~(ts)~~ Failing to keep records related to obtaining a carbon intensity under OAR 340-253-0450; or

~~(ut)~~ Failing to submit an annual compliance report under OAR 340-253-0100(8).

(3) Class III:

(a) Failing to perform testing or monitoring required by a permit, permit attachment, rule or order where missing data can be reconstructed to show compliance with standards, emission limitations or underlying requirements;

(b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;

(c) Modifying a source in such a way as to require construction approval from DEQ without first obtaining such approval from DEQ, unless otherwise classified;

(d) Failing to revise a notification of an asbestos abatement project when necessary, unless otherwise classified;

(e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project; or

(f) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257;

(g) Failing to register as a regulated party in the Oregon Clean Fuels Program under OAR 340-253-0100(1) and (4), when the person is an importer of finished fuels, as those terms are defined in OAR 340-253-0040;

- (h) Failing to keep records under OAR 340-253-0600, except as provided in subsection (2)(r); or
- (i) Failing to submit quarterly progress reports under OAR 340-253-0100(7).

[Ed. Note: Tables and Publications referenced are available from the agency.]

Stat. Auth.: ORS 468.020, 468A.025 & 468A.045

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 5-1980, f. & ef. 1-28-80; DEQ 22-1984, f. & ef. 11-8-84; DEQ 22-1988, f. & cert. ef. 9-14-88; DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 31-1990, f. & cert. ef. 8-15-90; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; Renumbered from 340-012-0050, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-012-0135,

Selected Magnitude Categories

(1) Magnitudes for selected Air Quality violations will be determined as follows:

(a) Opacity limit violations:

(A) Major — Opacity measurements or readings of 20 percent opacity or more over the applicable limit, or an opacity violation by a federal major source as defined in OAR 340-200-0020;

(B) Moderate — Opacity measurements or readings greater than 10 percent opacity and less than 20 percent opacity over the applicable limit; or

(C) Minor — Opacity measurements or readings of 10 percent opacity or less over the applicable limit.

(b) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit: Major — if a Lowest Achievable Emission Rate (LAER) or Best **Achievable Available** Control Technology (BACT) analysis shows that additional controls or offsets are or were needed, otherwise apply OAR 340-012-0130.

(c) Exceeding an emission limit established ~~pursuant to~~ **under** New Source Review/Prevention of Significant Deterioration (NSR/PSD): Major — if exceeded the emission limit by more than 50 percent of the limit, otherwise apply OAR 340-012-0130.

(d) Exceeding an emission limit established ~~pursuant to~~ under federal National Emission Standards for Hazardous Air Pollutants (NESHAPs): Major — if exceeded the Maximum Achievable Control Technology (MACT) standard emission limit for a directly-measured hazardous air pollutant (HAP), otherwise apply OAR 340-012-0130.

(e) Exceeding a cancer or chronic noncancer Source Risk Limit established under OAR 340-245-0005 through 340-245-8050: Major.

~~(f)~~ Air contaminant emission limit violations for selected air pollutants: Magnitude determinations under this subsection will be made based upon significant emission rate (SER) amounts listed in OAR 340-200-0020 (Tables 2 and 3).

(A) Major:

(i) Exceeding the annual emission limit as established by permit, rule or order by more than the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by more than the applicable short-term SER.

(B) Moderate:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the annual SER; or

(ii) Exceeding the short-term (less than one-year) emission limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the applicable short-term SER.

(C) Minor:

(i) Exceeding the annual emission limit as established by permit, rule or order by an amount less than 50 percent of the annual SER; or

(ii) Exceeding the short-term (less than one year) emission limit as established by permit, rule or order by an amount less than 50 percent of the applicable short-term SER.

~~(g)~~ Violations of Emergency Action Plans: Major — Major magnitude in all cases.

~~(h)~~ Violations of on road motor vehicle refinishing rules contained in OAR 340-242-0620: Minor — Refinishing 10 or fewer on road motor vehicles per year.

~~(i)~~ Asbestos violations — These selected magnitudes apply unless the violation does not cause the potential for human exposure to asbestos fibers:

(A) Major — More than 260 linear feet or more than 160 square feet of asbestos-containing material or asbestos-containing waste material;

(B) Moderate — From 40 linear feet up to and including 260 linear feet or from 80 square feet up to and including 160 square feet of asbestos-containing material or asbestos-containing waste material; or

(C) Minor — Less than 40 linear feet or 80 square feet of asbestos-containing material or asbestos-containing waste material.

(D) The magnitude of the asbestos violation may be increased by one level if the material was comprised of more than five percent asbestos.

(j) Open burning violations:

(A) Major — Initiating or allowing the initiation of open burning of 20 or more cubic yards of commercial, construction, demolition and/or industrial waste; or 5 or more cubic yards of prohibited materials (inclusive of tires); or 10 or more tires;

(B) Moderate — Initiating or allowing the initiation of open burning of 10 or more, but less than 20 cubic yards of commercial, construction, demolition and/or industrial waste; or 2 or more, but less than 5 cubic yards of prohibited materials (inclusive of tires); or 3 to 9 tires; or if DEQ lacks sufficient information upon which to make a determination of the type of waste, number of cubic yards or number of tires burned; or

(C) Minor — Initiating or allowing the initiation of open burning of less than 10 cubic yards of commercial, construction, demolition and/or industrial waste; or less than 2 cubic yards of prohibited materials (inclusive of tires); or 2 or less tires.

(D) The selected magnitude may be increased one level if DEQ finds that one or more of the following are true, or decreased one level if DEQ finds that none of the following are true:

(i) The burning took place in an open burning control area;

(ii) The burning took place in an area where open burning is prohibited;

(iii) The burning took place in a non-attainment or maintenance area for PM10 or PM2.5; or

(iv) The burning took place on a day when all open burning was prohibited due to meteorological conditions.

(k) Oregon Low Emission Vehicle Non-Methane Gas (NMOG) or Green House Gas (GHG) fleet average emission limit violations:

(A) Major — Exceeding the limit by more than 10 percent; or

(B) Moderate — Exceeding the limit by 10 percent or less.

(l) Oregon Clean Fuels Program violations:

(A) Exceeding the clean fuel standards set forth in OAR 340-253-0100(6), 340-253-8010 (Table 1) and 340-253-8020 (Table 2) by:

(i) Major — more than 15 percent;

(ii) Moderate — more than 10 percent but less than 15 percent;

(iii) Minor — 10 percent or less.

(B) Failing to register under OAR 340-253-0100(1) and (4): Minor — producers and importers of blendstocks;

(C) Failing to submit broker designation form under OAR 340-253-0100(3) and (4)(c): Minor; or

(D) Failing to keep records as set forth in OAR 340-253-0600, when the records relate to obtaining a carbon intensity under OAR 340-253-04500600: Minor; or

(E) Failing to submit annual compliance reports under OAR 340-253-0100(8): Moderate.

(2) Magnitudes for selected Water Quality violations will be determined as follows:

(a) Violating wastewater discharge permit effluent limitations:

(A) Major:

(i) The dilution (D) of the spill or technology based effluent limitation exceedance was less than two, when calculated as follows: $D = ((QR / 4) + QI) / QI$, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the incident;

(ii) The receiving stream flow at the time of the water quality based effluent limitation (WQBEL) exceedance was at or below the flow used to calculate the WQBEL; or

(iii) The resulting water quality from the spill or discharge was as follows:

(I) For discharges of toxic pollutants: CS/D was more than CA_{acute} , where CS is the concentration of the discharge, D is the dilution of the discharge as determined under (2)(a)(A)(i), and CA_{acute} is the concentration for acute toxicity (as defined by the applicable water quality standard);

(II) For spills or discharges affecting temperature, when the discharge temperature is at or above 32 degrees centigrade after two seconds from the outfall; or

(III) For BOD5 discharges: $(BOD5)/D$ is more than 10, where BOD5 is the concentration of the five-day Biochemical Oxygen Demand of the discharge and D is the dilution of the discharge as determined under (2)(a)(A)(i).

(B) Moderate:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was two or more but less than 10 when calculated as follows: $D = ((QR /4)+ QI) / QI$, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the discharge; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was greater than, but less than twice, the flow used to calculate the WQBEL.

(C) Minor:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was 10 or more when calculated as follows: $D = ((QR/4) + QI) / QI$, where QR is the receiving stream flow and QI is the quantity or discharge rate of the incident; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was twice the flow or more of the flow used to calculate the WQBEL.

(b) Violating numeric water quality standards:

(A) Major:

(i) Increased the concentration of any pollutant except for toxics, dissolved oxygen, pH, and turbidity, by 25 percent or more of the standard;

(ii) Decreased the dissolved oxygen concentration by two or more milligrams per liter below the standard;

(iii) Increased the toxic pollutant concentration by any amount over the acute standard or by 100 percent or more of the chronic standard;

(iv) Increased or decreased pH by one or more pH units from the standard; or

(v) Increased turbidity by 50 or more nephelometric turbidity units (NTU) over background.

(B) Moderate:

(i) Increased the concentration of any pollutant except for toxics, pH, and turbidity by more than 10 percent but less than 25 percent of the standard;

(ii) Decreased dissolved oxygen concentration by one or more, but less than two, milligrams per liter below the standard;

(iii) Increased the concentration of toxic pollutants by more than 10 percent but less than 100 percent of the chronic standard;

(iv) Increased or decreased pH by more than 0.5 pH unit but less than 1.0 pH unit from the standard; or

(v) Increased turbidity by more than 20 but less than 50 NTU over background.

(C) Minor:

(i) Increased the concentration of any pollutant, except for toxics, pH, and turbidity, by 10 percent or less of the standard;

(ii) Decreased the dissolved oxygen concentration by less than one milligram per liter below the standard;

(iii) Increased the concentration of toxic pollutants by 10 percent or less of the chronic standard;

(iv) Increased or decreased pH by 0.5 pH unit or less from the standard; or

(v) Increased turbidity by 20 NTU or less over background.

(c) The selected magnitude under (2)(a) or (b) may be increased one or more levels if the violation:

(A) Occurred in a water body that is water quality limited (listed on the most current 303(d) list) and the discharge is the same pollutant for which the water body is listed;

(B) Depressed oxygen levels or increased turbidity and/or sedimentation in a stream in which salmonids may be rearing or spawning as indicated by the beneficial use maps available at OAR 340-041-0101 through 0340;

(C) Violated a bacteria standard either in shellfish growing waters or during the period from June 1 through September 30; or

(D) Resulted in a documented fish or wildlife kill.

(3) Magnitudes for selected Solid Waste violations will be determined as follows:

(a) Operating a solid waste disposal facility without a permit or disposing of solid waste at an unpermitted site:

(A) Major — The volume of material disposed of exceeds 400 cubic yards;

(B) Moderate — The volume of material disposed of is greater than or equal to 40 cubic yards and less than or equal to 400 cubic yards; or

(C) Minor — The volume of materials disposed of is less than 40 cubic yards.

(D) The magnitude of the violation may be raised by one magnitude if the material disposed of was either in the floodplain of waters of the state or within 100 feet of waters of the state.

(b) Failing to accurately report the amount of solid waste disposed:

(A) Major — The amount of solid waste is underreported by 15 percent or more of the amount received;

(B) Moderate — The amount of solid waste is underreported by 5 percent or more, but less than 15 percent, of the amount received; or

(C) Minor — The amount of solid waste is underreported by less than 5 percent of the amount received.

(4) Magnitudes for selected Hazardous Waste violations will be determined as follows:

(a) Failure to make a hazardous waste determination;

(A) Major — Failure to make the determination on five or more waste streams;

(B) Moderate — Failure to make the determination on three or four waste streams; or

(C) Minor — Failure to make the determination on one or two waste streams.

(b) Hazardous Waste treatment, storage and disposal violations of OAR 340-012-0068(1)(b), (c), (h), (k), (l), (m), (p), (q) and (r):

(A) Major:

(i) Treatment, storage, or disposal of more than 55 gallons or 330 pounds of hazardous waste; or

(ii) Treatment, storage, or disposal of at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Treatment, storage, or disposal of 55 gallons or 330 pounds or less of hazardous waste; or

(ii) Treatment, storage, or disposal of less than one quart or 2.2 pounds of acutely hazardous waste.

(c) Hazardous waste management violations classified in OAR 340-012-0068(1)(d), (e) (f), (g), (i), (j), (n), (s) and (2)(a), (b), (d), (e), (h), (i), (k), (m), (n), (o), (p), (r) and (s):

(A) Major:

(i) Hazardous waste management violations involving more than 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving at least one quart or 2.2 pounds of acutely hazardous waste.

(B) Moderate:

(i) Hazardous waste management violations involving more than 250 gallons or 1,500 pounds, up to and including 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving less than one quart or 2.2 pounds of acutely hazardous waste.

(C) Minor:

(i) Hazardous waste management violations involving 250 gallons or 1,500 pounds or less of hazardous waste and no acutely hazardous waste.

(5) Magnitudes for selected Used Oil violations (OAR 340-012-0072) will be determined as follows:

(a) Used Oil violations set forth in OAR 340-012-0072(1)(f), (h), (i), (j); and (2)(a) through (h):

(A) Major — Used oil management violations involving more than 1,000 gallons or 7,000 pounds of used oil or used oil mixtures;

(B) Moderate — Used oil management violations involving more than 250 gallons or 1,750 pounds, up to and including 1,000 gallons or 7,000 pounds of used oil or used oil mixture; or

(C) Minor — Used oil management violations involving 250 gallons or 1,750 pounds or less of used oil or used oil mixtures.

(b) Used Oil spill or disposal violations set forth in OAR 340-012-0072(1)(a) through (e), (g) and (k).

(A) Major — A spill or disposal involving more than 420 gallons or 2,940 pounds of used oil or used oil mixtures;

(B) Moderate — A spill or disposal involving more than 42 gallons or 294 pounds, up to and including 420 gallons or 2,940 pounds of used oil or used oil mixtures; or

(C) Minor — A spill or disposal of used oil involving 42 gallons or 294 pounds or less of used oil or used oil mixtures.

[ED. NOTE: Tables & Publications referenced are available from the agency.]

Stat. Auth.: ORS 468.065 & 468A.045

Stats. Implemented: ORS 468.090 - 468.140 & 468A.060

Hist.: DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 1-2003, f. & cert. ef. 1-31-03; Renumbered from 340-012-0090, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

340-012-0140.

Determination of Base Penalty

(1) Except for Class III violations and as provided in OAR 340-012-0155, the base penalty (BP) is determined by applying the class and magnitude of the violation to the matrices set forth in this section. For Class III violations, no magnitude determination is required.

(2) \$12,000 Penalty Matrix:

(a) The \$12,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued pursuant to New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the federal Clean Air Act.

(B) Open burning violations as follows:

(i) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit.

(ii) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(C) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) by an automobile manufacturer.

(D) Any violation of ORS 468B.025(1)(a) or (1)(b), or of 468B.050(1)(a) by a person without a National Pollutant Discharge Elimination System (NPDES) permit, unless otherwise classified.

(E) Any violation of a water quality statute, rule, permit or related order by:

(i) A person that has an NPDES permit, or that has or should have a Water Pollution Control Facility (WPCF) permit, for a municipal or private utility sewage treatment facility with a permitted flow of five million or more gallons per day.

(ii) A person that has a Tier 1 industrial source NPDES or WPCF permit.

(iii) A person that has a population of 100,000 or more, as determined by the most recent national census, and either has or should have a WPCF Municipal Stormwater Underground Injection Control (UIC) System Permit, or has an NPDES Municipal Separated Storm Sewer Systems (MS4) Stormwater Discharge Permit.

(iv) A person that installs or operates a prohibited Class I, II, III, IV or V UIC system, except for a cesspool.

(v) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that disturbs 20 or more acres.

(F) Any violation of the ballast water statute in ORS Chapter 783 or ballast water management rule in OAR 340, division 143.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification by a 100 megawatt or more hydroelectric facility.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a dredge and fill project except for Tier 1, 2A or 2B projects.

(I) Any violation of an underground storage tanks statute, rule, permit or related order committed by the owner, operator or permittee of 10 or more UST facilities or a person who is licensed or should be licensed by DEQ to perform tank services.

(J) Any violation of a heating oil tank statute, rule, permit, license or related order committed by a person who is licensed or should be licensed by DEQ to perform heating oil tank services.

(K) Any violation of ORS 468B.485, or related rules or orders regarding financial assurance for ships transporting hazardous materials or oil.

(L) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.

(M) Any violation of a hazardous waste statute, rule, permit or related order by:

(i) A person that is a large quantity generator or hazardous waste transporter.

(ii) A person that has or should have a treatment, storage or disposal facility permit.

(N) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a covered vessel or facility as defined in ORS 468B.300 or by a person who is engaged in the business of manufacturing, storing or transporting oil or hazardous materials.

(O) Any violation of a polychlorinated biphenyls (PCBs) management and disposal statute, rule, permit or related order.

(P) Any violation of ORS Chapter 465, UST or environmental cleanup statute, rule, related order or related agreement.

(Q) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or any violation of a solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a solid waste disposal permit.

(ii) A person with a population of 25,000 or more, as determined by the most recent national census.

(R) Any violation of the Oregon Clean Fuels Program under OAR 340 division 253 by a person registered as an importer of blendstocks.

(b) The base penalty values for the \$12,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$12,000;

(ii) Moderate — \$6,000;

(iii) Minor — \$3,000.

(B) Class II:

(i) Major — \$6,000;

(ii) Moderate — \$3,000;

(iii) Minor — \$1,500.

(C) Class III: \$1,000.

(3) \$8,000 Penalty Matrix:

(a) The \$8,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have an ACDP permit, except for NSR, PSD and Basic ACDP permits, unless listed under another penalty matrix.

(B) Any violation of an asbestos statute, rule, permit or related order except those violations listed in section (5) of this rule.

(C) Any violation of a vehicle inspection program statute, rule, permit or related order committed by an auto repair facility.

(D) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) committed by an automobile dealer or an automobile rental agency.

(E) Any violation of a water quality statute, rule, permit or related order committed by:

(i) A person that has an NPDES Permit, or that has or should have a WPCF Permit, for a municipal or private utility sewage treatment facility with a permitted flow of two million or more, but less than five million, gallons per day.

(ii) A person that has a Tier 2 industrial source NPDES or WPCF Permit.

(iii) A person that has or should have applied for coverage under an NPDES or a WPCF General Permit, except an NPDES Stormwater Discharge 1200-C General Permit for a construction site of less than five acres in size or 20 or more acres in size.

(iv) A person that has a population of less than 100,000 but more than 10,000, as determined by the most recent national census, and has or should have a WPCF Municipal Stormwater UIC System Permit or has an NPDES MS4 Stormwater Discharge Permit.

(v) A person that owns, and that has or should have registered, a UIC system that disposes of wastewater other than stormwater or sewage or geothermal fluids.

(F) Any violation of a Clean Water Act Section 401 Water Quality Certification by a less than 100 megawatt hydroelectric facility.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 2A or Tier 2B dredge and fill project.

(H) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of five to nine UST facilities.

(I) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a waste tire permit; or

(ii) A person with a population of more than 5,000 but less than or equal to 25,000, as determined by the most recent national census.

(J) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a small quantity generator.

(K) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person other than a person listed in OAR 340-012-0140(2)(a)(N) occurring during a commercial activity or involving a derelict vessel over 35 feet in length.

(L) Any violation of the Oregon Clean Fuels Program under OAR 340 division 253 by a person registered as a credit generator.

(b) The base penalty values for the \$8,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$8,000.

(ii) Moderate — \$4,000.

(iii) Minor — \$2,000.

(B) Class II:

(i) Major — \$4,000.

(ii) Moderate — \$2,000.

(iii) Minor — \$1,000.

(C) Class III: \$ 700.

(4) \$3,000 Penalty Matrix:

(a) The \$3,000 penalty matrix applies to the following:

(A) Any violation of any statute, rule, permit, license, or order committed by a person not listed under another penalty matrix.

(B) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person not listed under another penalty matrix.

(C) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have a Basic ACDP or an ACDP or registration only because the person is subject to Area Source NESHAP regulations.

(D) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(E) Any violation of a vehicle inspection program statute, rule, permit or related order committed by a natural person, except for those violations listed in section (5) of this rule.

- (F) Any violation of a water quality statute, rule, permit, license or related order not listed under another penalty matrix and committed by:
- (i) A person that has an NPDES permit, or has or should have a WPCF permit, for a municipal or private utility wastewater treatment facility with a permitted flow of less than two million gallons per day.
 - (ii) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that is more than one, but less than five acres.
 - (iii) A person that has a population of 10,000 or less, as determined by the most recent national census, and either has an NPDES MS4 Stormwater Discharge Permit or has or should have a WPCF Municipal Stormwater UIC System Permit.
 - (iv) A person who is licensed to perform onsite sewage disposal services or who has performed sewage disposal services.
 - (v) A person, except for a residential owner-occupant, that owns and either has or should have registered a UIC system that disposes of stormwater, sewage or geothermal fluids.
 - (vi) A person that has or should have a WPCF individual stormwater UIC system permit.
 - (vii) Any violation of a water quality statute, rule, permit or related order committed by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for suction dredges.
- (G) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by a residential owner-occupant.
- (H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 1 dredge and fill project.
- (I) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.
- (J) Any violation of a used oil statute, rule, permit or related order, except a violation related to a spill or release, committed by a person that is a used oil generator.
- (K) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a conditionally exempt generator, unless listed under another penalty matrix.
- (L) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.

(M) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.

(N) Any violation of rigid pesticide container disposal requirements by a conditionally exempt generator of hazardous waste.

(O) Any violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by non-residential uses of property disturbing less than one acre in size.

(P) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person not listed under another matrix.

(Q) Any violation of the Oregon Clean Fuels Program under OAR 340 division 253 by a person registered as an importer of finished fuels.

(b) The base penalty values for the \$3,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$3,000;

(ii) Moderate — \$1,500;

(iii) Minor — \$750.

(B) Class II:

(i) Major — \$1,500;

(ii) Moderate — \$750;

(iii) Minor — \$375.

(C) Class III: \$250.

(5) \$1,000 Penalty Matrix:

(a) The \$1,000 penalty matrix applies to the following:

(A) Any violation of an open burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix.

(B) Any violation of visible emissions standards by operation of a vehicle.

(C) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.

(D) Any violation of an onsite sewage disposal statute, rule, permit or related order of OAR chapter 340, division 44 committed by a residential owner-occupant.

(E) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of one UST facility.

(F) Any violation of an HOT statute, rule, permit or related order not listed under another penalty matrix.

(G) Any violation of OAR chapter 340, division 124 or ORS 465.505 by a dry cleaning owner or operator, dry store owner or operator, or supplier of perchloroethylene.

(H) Any violation of ORS Chapter 459 or other solid waste statute, rule or related order committed by a residential owner-occupant.

(I) Any violation of a statute, rule, permit or order relating to rigid plastic containers, except for violation of the labeling requirements under OAR 459A.675 through 459A.685.

(J) Any violation of a statute, rule or order relating to the opportunity to recycle.

(K) Any violation of OAR chapter 340, division 262 or other statute, rule or order relating to solid fuel burning devices, except a violation related to the sale of new or used solid fuel burning devices or the removal and destruction of used solid fuel burning devices.

(L) Any violation of an UIC system statute, rule, permit or related order by a residential owner-occupant, when the UIC disposes of stormwater, sewage or geothermal fluids.

(M) Any Violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by residential use of property disturbing less than one acre in size.

(b) The base penalty values for the \$1,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$1,000;

(ii) Moderate — \$500;

(iii) Minor — \$250.

(B) Class II:

(i) Major — \$500;

(ii) Moderate — \$250;

(iii) Minor — \$125.

(C) Class III: \$100.

Stat. Auth.: ORS 468.020 & 468.090 - 468.140

Stats. Implemented: ORS 459.995, 459A.655, 459A.660, 459A.685 & 468.035

Hist.: DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 33-1990, f. & cert. ef. 8-15-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; Renumbered from 340-012-0042, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 13-2015, f. 12-10-15, cert. ef. 1-1-16

DIVISION 200

GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

340-200-0020

General Air Quality Definitions

As used in OAR 340 divisions 200 through 268, unless specifically defined otherwise:

- (1) "Act" or "FCAA" means the Federal Clean Air Act, 42 U.S.C.A. § 7401 to 7671q.
- (2) "Activity" means any process, operation, action, or reaction (e.g., chemical) at a source that emits a regulated pollutant.
- (3) "Actual emissions" means the mass emissions of a regulated pollutant from an emissions source during a specified time period as set forth in OAR 340 divisions 214, 220 and 222.
- (4) "Adjacent", as used in the definitions of major source and source and in OAR 340-216-0070, means interdependent facilities that are nearby to each other.
- (5) "Affected source" means a source that includes one or more affected units that are subject to emission reduction requirements or limitations under Title IV of the FCAA.
- (6) "Affected states" means all states:
 - (a) Whose air quality may be affected by a proposed permit, permit modification, or permit renewal and that are contiguous to Oregon; or
 - (b) That are within 50 miles of the permitted source.
- (7) "Aggregate insignificant emissions" means the annual actual emissions of any regulated pollutant from one or more designated activities at a source that are less than or equal to the lowest

applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities must be less than or equal to the lowest applicable level specified:

(a) One ton for total reduced sulfur, hydrogen sulfide, sulfuric acid mist, any Class I or II substance subject to a standard promulgated under or established by Title VI of the FCAA, and each criteria pollutant, except lead;

(b) 120 pounds for lead;

(c) 600 pounds for fluorides;

(d) 500 pounds for PM10 in a PM10 nonattainment area;

(e) 500 pounds for direct PM2.5 in a PM2.5 nonattainment area;

(f) The lesser of the amount established in 40 CFR 68.130 or 1,000 pounds;

(g) An aggregate of 5,000 pounds for all hazardous air pollutants;

(h) 2,756 tons CO₂e for greenhouse gases.

(8) "Air contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid, particulate matter, regulated pollutant, or any combination thereof.

(9) "Air Contaminant Discharge Permit" or "ACDP" means written authorization issued, renewed, amended, or revised by DEQ, ~~pursuant to~~ under OAR 340 division 216.

(10) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to DEQ's satisfaction to, in specific cases, produce results adequate for determination of compliance. The alternative method must comply with the intent of the rules, is at least equivalent in objectivity and reliability to the uniform recognized procedures, and is demonstrated to be reproducible, selective, sensitive, accurate, and applicable to the program. An alternative method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to DEQ.

(11) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(12) "Applicable requirement" means all of the following as they apply to emissions units in an Oregon Title V Operating Permit program source or ACDP program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:

- (a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rulemaking under Title I of the FCAA that implements the relevant requirements of the FCAA, including any revisions to that plan promulgated in 40 CFR part 52;
- (b) Any standard or other requirement adopted under OAR 340-200-0040 of the State of Oregon Clean Air Act Implementation Plan that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;
- (c) Any term or condition in an ACDP, OAR 340 division 216, including any term or condition of any preconstruction permits issued ~~pursuant to~~ under OAR 340 division 224, New Source Review, until or unless DEQ revokes or modifies the term or condition by a permit modification;
- (d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-210-0205 through 340-210-0240, until or unless DEQ revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;
- (e) Any term or condition in a Notice of Approval, OAR 340-218-0190, issued before July 1, 2001, until or unless DEQ revokes or modifies the term or condition by a Notice of Approval or a permit modification;
- (f) Any term or condition of a PSD permit issued by the EPA until or unless the EPA revokes or modifies the term or condition by a permit modification;
- (g) Any standard or other requirement under section 111 of the FCAA, including section 111(d);
- (h) Any standard or other requirement under section 112 of the FCAA, including any requirement concerning accident prevention under section 112(r)(7) of the FCAA;
- (i) Any standard or other requirement of the acid rain program under Title IV of the FCAA or the regulations promulgated thereunder;
- (j) Any requirements established ~~pursuant to~~ under section 504(b) or section 114(a)(3) of the FCAA;
- (k) Any standard or other requirement under section 126(a)(1) and(c) of the FCAA;
- (l) Any standard or other requirement governing solid waste incineration, under section 129 of the FCAA;
- (m) Any standard or other requirement for consumer and commercial products, under section 183(e) of the FCAA;
- (n) Any standard or other requirement for tank vessels, under section 183(f) of the FCAA;

(o) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the FCAA;

(p) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the FCAA, unless the Administrator has determined that such requirements need not be contained in an Oregon Title V Operating Permit; and

(q) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the FCAA, but only as it would apply to temporary sources permitted ~~pursuant to~~under section 504(e) of the FCAA.

(13) "Attainment area" or "unclassified area" means an area that has not otherwise been designated by EPA as nonattainment with ambient air quality standards for a particular regulated pollutant. Attainment areas or unclassified areas may also be referred to as sustainment or maintenance areas as designated in OAR 340 division 204. Any particular location may be part of an attainment area or unclassified area for one regulated pollutant while also being in a different type of designated area for another regulated pollutant.

(14) "Attainment pollutant" means a pollutant for which an area is designated an attainment or unclassified area.

(15) "Baseline emission rate" means the actual emission rate during a baseline period as determined under OAR 340 division 222.

(16) "Baseline period" means the period used to determine the baseline emission rate for each regulated pollutant under OAR 340 division 222.

(17) "Best Available Control Technology" or "BACT" means an emission limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of each air contaminant subject to regulation under the FCAA which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event may the application of BACT result in emissions of any air contaminant that would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutant. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard must, to the degree possible, set forth the emission reduction achievable and provide for compliance by prescribing appropriate permit conditions.

(18) "Biomass" means non-fossilized and biodegradable organic material originating from plants, animals, and microorganisms, including products, byproducts, residues and waste from agriculture, forestry, and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.

(19) "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.

(20) "Capture efficiency" means the amount of regulated pollutant collected and routed to an air pollution control device divided by the amount of total emissions generated by the process being controlled.

(21) "Capture system" means the equipment, including but not limited to hoods, ducts, fans, and booths, used to contain, capture and transport a regulated pollutant to a control device.

(22) "Carbon dioxide equivalent" or "CO₂e" means an amount of a greenhouse gas or gases expressed as the equivalent amount of carbon dioxide, and is computed by multiplying the mass of each of the greenhouse gases by the global warming potential published for each gas at 40 CFR part 98, subpart A, Table A-1-Global Warming Potentials, and adding the resulting value for each greenhouse gas to compute the total equivalent amount of carbon dioxide.

(23) "Categorically insignificant activity" means any of the following listed regulated pollutant emitting activities principally supporting the source or the major industrial group. Categorically insignificant activities must comply with all applicable requirements.

(a) Constituents of a chemical mixture present at less than 1 percent by weight of any chemical or compound regulated under divisions 200 through 268 excluding divisions 248 and 262 of this chapter, or less than 0.1 percent by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year;

(b) Evaporative and tailpipe emissions from on-site motor vehicle operation;

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

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

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

(d) Distillate oil, kerosene, gasoline, natural gas or propane burning equipment brought on site for six months or less for maintenance, construction or similar purposes, such as but not limited to generators, pumps, hot water pressure washers and space heaters, provided that any such

equipment that performs the same function as the permanent equipment, must be operated within the source's existing PSEL;

- (e) Office activities;
- (f) Food service activities;
- (g) Janitorial activities;
- (h) Personal care activities;
- (i) Groundskeeping activities including, but not limited to building painting and road and parking lot maintenance;
- (j) On-site laundry activities;
- (k) On-site recreation facilities;
- (l) Instrument calibration;
- (m) Maintenance and repair shop;
- (n) Automotive repair shops or storage garages;
- (o) Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;
- (p) Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;
- (q) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;
- (r) Temporary construction activities;
- (s) Warehouse activities;
- (t) Accidental fires;
- (u) Air vents from air compressors;
- (v) Air purification systems;
- (w) Continuous emissions monitoring vent lines;

- (x) Demineralized water tanks;
- (y) Pre-treatment of municipal water, including use of deionized water purification systems;
- (z) Electrical charging stations;
- (aa) Fire brigade training;
- (bb) Instrument air dryers and distribution;
- (cc) Process raw water filtration systems;
- (dd) Pharmaceutical packaging;
- (ee) Fire suppression;
- (ff) Blueprint making;
- (gg) Routine maintenance, repair, and replacement such as anticipated activities most often associated with and performed during regularly scheduled equipment outages to maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;
- (hh) Electric motors;
- (ii) Storage tanks, reservoirs, transfer and lubricating equipment used for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;
- (jj) On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;
- (kk) Natural gas, propane, and liquefied petroleum gas (LPG) storage tanks and transfer equipment;
- (ll) Pressurized tanks containing gaseous compounds;
- (mm) Vacuum sheet stacker vents;
- (nn) Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;
- (oo) Log ponds;
- (pp) Stormwater settling basins;

- (qq) Fire suppression and training;
- (rr) Paved roads and paved parking lots within an urban growth boundary;
- (ss) Hazardous air pollutant emissions in fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;
- (tt) Health, safety, and emergency response activities;
- (uu) Emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency, provided that the aggregate horsepower rating of all stationary emergency generator and pump engines is not more than 3,000 horsepower. If the aggregate horsepower rating of all stationary emergency generator and pump engines is more than 3,000 horsepower, then no emergency generators and pumps at the source may be considered categorically insignificant;
- (vv) Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;
- (ww) Non-contact steam condensate flash tanks;
- (xx) Non-contact steam vents on condensate receivers, deaerators and similar equipment;
- (yy) Boiler blowdown tanks;
- (zz) Industrial cooling towers that do not use chromium-based water treatment chemicals;
- (aaa) Ash piles maintained in a wetted condition and associated handling systems and activities;
- (bbb) Uncontrolled oil/water separators in effluent treatment systems, excluding systems with a throughput of more than 400,000 gallons per year of effluent located at the following sources:
 - (A) Petroleum refineries;
 - (B) Sources that perform petroleum refining and re-refining of lubricating oils and greases including asphalt production by distillation and the reprocessing of oils and/or solvents for fuels;
or
 - (C) Bulk gasoline plants, bulk gasoline terminals, and pipeline facilities;
- (ccc) Combustion source flame safety purging on startup;
- (ddd) Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;

- (eee) Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and
- (fff) White water storage tanks.

(24) "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies the accuracy of the emission statement.

(25) "Class I area" or "PSD Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as a Class I area under OAR 340-204-0050 and 340-204-0060.

(26) "Class II area" or "PSD Class II area" means any land which is classified or reclassified as a Class II area under OAR 340-204-0050 and 340-204-0060.

(27) "Class III area" or "PSD Class III area" means any land which is reclassified as a Class III area under OAR 340-204-0060.

(28) "Commence" or "commencement" means that the owner or operator has obtained all necessary preconstruction approvals required by the FCAA and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.

(29) "Commission" or "EQC" means Environmental Quality Commission.

(30) "Constant process rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.

(31) "Construction":

(a) Except as provided in subsection (b) means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of a source or part of a source;

(b) As used in OAR 340 division 224 means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or change in the method of operation of a source which would result in a change in actual emissions.

(32) "Continuous compliance determination method" means a method, specified by the applicable standard or an applicable permit condition, which:

(a) Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and

(b) Provides data either in units of the standard or correlated directly with the compliance limit.

(33) "Continuous monitoring systems" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emissions or concentrations on a continuing basis as specified in the DEQ Continuous Monitoring Manual, and includes continuous emission monitoring systems, continuous opacity monitoring system (COMS) and continuous parameter monitoring systems.

(34) "Control device" means equipment, other than inherent process equipment that is used to destroy or remove a regulated pollutant prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to, fabric filters, mechanical collectors, electrostatic precipitators, inertial separators, afterburners, thermal or catalytic incinerators, adsorption devices, such as carbon beds, condensers, scrubbers, such as wet collection and gas absorption devices, selective catalytic or non-catalytic reduction systems, flue gas recirculation systems, spray dryers, spray towers, mist eliminators, acid plants, sulfur recovery plants, injection systems, such as water, steam, ammonia, sorbent or limestone injection, and combustion devices independent of the particular process being conducted at an emissions unit, e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters. For purposes of OAR 340-212-0200 through 340-212-0280, a control device does not include passive control measures that act to prevent regulated pollutants from forming, such as the use of seals, lids, or roofs to prevent the release of regulated pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular regulated pollutant-specific emissions unit, then that definition will be binding for purposes of OAR 340-212-0200 through 340-212-0280.

(35) "Control efficiency" means the product of the capture and removal efficiencies.

(36) "Criteria pollutant" means any of the following regulated pollutants: nitrogen oxides, volatile organic compounds, particulate matter, PM10, PM2.5, sulfur dioxide, carbon monoxide, and lead.

(37) "Data" means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.

(38) "Day" means a 24-hour period beginning at 12:00 a.m. midnight or a 24-hour period as specified in a permit.

(39) "De minimis emission level" means the level for the regulated pollutants listed below:

(a) Greenhouse Gases (CO₂e) = 2,756 tons per year.

(b) CO = 1 ton per year.

- (c) NO_x = 1 ton per year.
- (d) SO₂ = 1 ton per year.
- (e) VOC = 1 ton per year.
- (f) PM = 1 ton per year.
- (g) PM₁₀ (except Medford AQMA) = 1 ton per year.
- (h) PM₁₀ (Medford AQMA) = 0.5 ton per year and 5.0 pounds/day.
- (i) Direct PM_{2.5} = 1 ton per year.
- (j) Lead = 0.1 ton per year.
- (k) Fluorides = 0.3 ton per year.
- (l) Sulfuric Acid Mist = 0.7 ton per year.
- (m) Hydrogen Sulfide = 1 ton per year.
- (n) Total Reduced Sulfur (including hydrogen sulfide) = 1 ton per year.
- (o) Reduced Sulfur = 1 ton per year.
- (p) Municipal waste combustor organics (dioxin and furans) = 0.0000005 ton per year.
- (q) Municipal waste combustor metals = 1 ton per year.
- (r) Municipal waste combustor acid gases = 1 ton per year.
- (s) Municipal solid waste landfill gases (measured as nonmethane organic compounds) = 1 ton per year
- (t) Single HAP = 1 ton per year
- (u) Combined HAP (aggregate) = 1 ton per year
- (40) "Department" or "DEQ":
 - (a) Means Department of Environmental Quality; except
 - (b) As used in OAR 340 divisions 218 and 220 means Department of Environmental Quality, or in the case of Lane County, LRAPA.

- (41) "DEQ method [#]" means the sampling method and protocols for measuring a regulated pollutant as described in the DEQ Source Sampling Manual.
- (42) "Designated area" means an area that has been designated as an attainment, unclassified, sustainment, nonattainment, reattainment, or maintenance area under OAR 340 division 204 or applicable provisions of the FCAA.
- (43) "Destruction efficiency" means removal efficiency.
- (44) "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.
- (45) "Direct PM2.5" has the meaning provided in the definition of PM2.5.
- (46) "Director" means the Director of DEQ or the Director's designee.
- (47) "Draft permit" means the version of an Oregon Title V Operating Permit for which DEQ or LRAPA offers public participation under OAR 340-218-0210 or the EPA and affected State review under 340-218-0230.
- (48) "Dry standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions.
- (49) "Effective date of the program" means the date that the EPA approves the Oregon Title V Operating Permit program submitted by DEQ on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.
- (50) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
- (51) "Emission" means a release into the atmosphere of any regulated pollutant or any air contaminant.
- (52) "Emission estimate adjustment factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.
- (53) "Emission factor" means an estimate of the rate at which a regulated pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate).

(54) "Emission limitation" or "Emission standard" or "Emission limitation or standard" means:

(a) Except as provided in subsection (b), a requirement established by a state, local government, or the EPA which limits the quantity, rate, or concentration of emissions of regulated pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(b) As used in OAR 340-212-0200 through 340-212-0280, any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the FCAA. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions, e.g., pounds of SO₂ per hour, pounds of SO₂ per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO₂, or as the relationship of uncontrolled to controlled emissions, e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO₂. An emission limitation or standard may also be expressed either as a work practice, process or control device parameter, or other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of 340-212-0200 through 340-212-0280, an emission limitation or standard does not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, operate and maintain sources using good air pollution control practices, develop and maintain a malfunction abatement plan, keep records, submit reports, or conduct monitoring.

(55) "Emission Reduction credit banking" means to presently reserve, subject to requirements of OAR 340 division 268, Emission Reduction Credits, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

(56) "Emission reporting form" means a paper or electronic form developed by DEQ that must be completed by the permittee to report calculated emissions, actual emissions, or permitted emissions for interim emission fee assessment purposes.

(57) "Emissions unit" means any part or activity of a source that emits or has the potential to emit any regulated pollutant.

(a) A part of a source is any machine, equipment, raw material, product, or byproduct that produces or emits regulated pollutants. An activity is any process, operation, action, or reaction, e.g., chemical, at a stationary source that emits regulated pollutants. Except as described in subsection (d), parts and activities may be grouped for purposes of defining an emissions unit if the following conditions are met:

(A) The group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply; and

(B) The emissions from the emissions unit are quantifiable.

(b) Emissions units may be defined on a regulated pollutant by regulated pollutant basis where applicable.

(c) The term emissions unit is not meant to alter or affect the definition of the term "unit" under Title IV of the FCAA.

(d) Parts and activities cannot be grouped for determining emissions increases from an emissions unit under OAR 340 divisions 210 and 224, or for determining the applicability of any New Source Performance Standard.

(58) "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

(59) "EPA Method 9" means the method for Visual Determination of the Opacity of Emissions From Stationary Sources described in 40 CFR part 60, Appendix A-4.

(60) "Equivalent method" means any method of sampling and analyzing for a regulated pollutant that has been demonstrated to DEQ's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to DEQ.

(61) "Event" means excess emissions that arise from the same condition and occur during a single calendar day or continue into subsequent calendar days.

(62) "Exceedance" means a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions, or opacity, are greater than the applicable emission limitation or standard, or less than the applicable standard in the case of a percent reduction requirement, consistent with any averaging period specified for averaging the results of the monitoring.

(63) "Excess emissions" means emissions or risk in excess of a permit or permit attachment limit or in violation of any applicable air quality rule.

(64) "Excursion" means a departure from an indicator range established for monitoring under OAR 340-212-0200 through 340-212-0280 and 340-218-0050(3)(a), consistent with any averaging period specified for averaging the results of the monitoring.

(65) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.

(66) "Federal Major Source" means any source listed in subsections (a) or (d) below:

(a) A source with potential to emit:

(A) 100 tons per year or more of any individual regulated pollutant, excluding greenhouse gases and hazardous air pollutants listed in OAR 340 division 244 if in a source category listed in subsection (c), or

(B) 250 tons per year or more of any individual regulated pollutant, excluding greenhouse gases and hazardous air pollutants listed in OAR 340 division 244, if not in a source category listed in subsection (c).

(b) Calculations for determining a source's potential to emit for purposes of subsections (a) and (d) must include the following:

(A) Fugitive emissions and insignificant activity emissions; and

(B) Increases or decreases due to a new or modified source.

(c) Source categories:

(A) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;

(B) Coal cleaning plants with thermal dryers;

(C) Kraft pulp mills;

(D) Portland cement plants;

(E) Primary zinc smelters;

(F) Iron and steel mill plants;

(G) Primary aluminum ore reduction plants;

(H) Primary copper smelters;

(I) Municipal incinerators capable of charging more than 50 tons of refuse per day;

(J) Hydrofluoric acid plants;

(K) Sulfuric acid plants;

(L) Nitric acid plants;

(M) Petroleum refineries;

(N) Lime plants;

(O) Phosphate rock processing plants;

- (P) Coke oven batteries;
- (Q) Sulfur recovery plants;
- (R) Carbon black plants, furnace process;
- (S) Primary lead smelters;
- (T) Fuel conversion plants;
- (U) Sintering plants;
- (V) Secondary metal production plants;
- (W) Chemical process plants, excluding ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (X) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;
- (Y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (Z) Taconite ore processing plants;
- (AA) Glass fiber processing plants;
- (BB) Charcoal production plants.

(d) A major stationary source as defined in part D of Title I of the FCAA, including:

(A) For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tons per year of nitrogen oxides do not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the FCAA, that requirements under section 182(f) of the FCAA do not apply;

(B) For ozone transport regions established ~~pursuant to~~ under section 184 of the FCAA, sources with the potential to emit 50 tons per year or more of VOCs;

(C) For carbon monoxide nonattainment areas that are classified as "serious" and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tons per year or more of carbon monoxide.

(D) For PM10 nonattainment areas classified as "serious," sources with the potential to emit 70 tons per year or more of PM10.

(67) "Final permit" means the version of an Oregon Title V Operating Permit issued by DEQ or LRAPA that has completed all review procedures required by OAR 340-218-0120 through 340-218-0240.

(68) "Form" means a paper or electronic form developed by DEQ.

(69) "Fuel burning equipment" means equipment, other than internal combustion engines, the principal purpose of which is to produce heat or power by indirect heat transfer.

(70) "Fugitive emissions":

(a) Except as used in subsection (b), means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

(b) As used to define a major Oregon Title V Operating Permit program source, means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(71) "General permit":

(a) Except as provided in subsection (b), means an Oregon Air Contaminant Discharge Permit established under OAR 340-216-0060;

(b) As used in OAR 340 division 218 means an Oregon Title V Operating Permit established under OAR 340-218-0090.

(72) "Generic PSEL" means the levels for the regulated pollutants listed below:

(a) Greenhouse Gases (CO₂e) = 74,000 tons per year

(b) CO = 99 tons per year

(c) NO_x = 39 tons per year

(d) SO₂ = 39 tons per year

(e) VOC = 39 tons per year

(f) PM = 24 tons per year

(g) PM₁₀ (except Medford AQMA) = 14 tons per year

- (h) PM10 (Medford AQMA) = 4.5 tons per year and 49 pounds per day
 - (i) PM2.5 = 9 tons per year
 - (j) Lead = 0.5 tons per year
 - (k) Fluorides = 2 tons per year
 - (l) Sulfuric Acid Mist = 6 tons per year
 - (m) Hydrogen Sulfide = 9 tons per year
 - (n) Total Reduced Sulfur (including hydrogen sulfide) = 9 tons per year
 - (o) Reduced Sulfur = 9 tons per year
 - (p) Municipal waste combustor organics (Dioxin and furans) = 0.0000030 tons per year
 - (q) Municipal waste combustor metals = 14 tons per year
 - (r) Municipal waste combustor acid gases = 39 tons per year
 - (s) Municipal solid waste landfill gases (measured as nonmethane organic compounds) = 49 tons per year
 - (t) Single HAP = 9 tons per year
 - (u) Combined HAPs (aggregate) = 24 tons per year
- (73)(a) "Greenhouse gases" or "GHGs" means the aggregate group of the following six gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Each gas is also individually a greenhouse gas.
- (b) The definition of greenhouse gases in subsection (a) of this section does not include, for purposes of division 216, 218, and 224, carbon dioxide emissions from the combustion or decomposition of biomass except to the extent required by federal law.
- (74) "Growth allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed sources and modifications of sources.
- (75) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.
- (76) "Hazardous Air Pollutant" or "HAP" means an air contaminant listed by the EPA pursuant to under section 112(b) of the FCAA or determined by the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.

(77) "Immediately" means as soon as possible but in no case more than one hour after a source knew or should have known of an excess emission period.

(78) "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(79) "Indian reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(80) "Inherent process equipment" means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of OAR 340-212-0200 through 340-212-0280, inherent process equipment is not considered a control device.

(81) "Insignificant activity" means an activity or emission that DEQ has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.

(82) "Insignificant change" means an off-permit change defined under OAR 340-218-0140(2)(a) to either a significant or an insignificant activity which:

- (a) Does not result in a re-designation from an insignificant to a significant activity;
- (b) Does not invoke an applicable requirement not included in the permit; and
- (c) Does not result in emission of regulated pollutants not regulated by the source's permit.

(83) "Internal combustion engine" means stationary gas turbines and reciprocating internal combustion engines.

(84) "Late payment" means a fee payment which is postmarked after the due date.

(85) "Liquefied petroleum gas" has the meaning given by the American Society for Testing and Materials in ASTM D1835-82, "Standard Specification for Liquid Petroleum Gases."

(86) "Lowest Achievable Emission Rate" or "LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. The application of this term cannot permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants.

(87) "Maintenance area" means any area that was formerly nonattainment for a criteria pollutant but has since met the ambient air quality standard, and EPA has approved a maintenance plan to comply with the standards pursuant to under 40 CFR 51.110. Maintenance areas are designated by the EQC according to division 204.

(88) "Maintenance pollutant" means a regulated pollutant for which a maintenance area was formerly designated a nonattainment area.

(89) "Major Modification" means any physical change or change in the method of operation of a source that results in satisfying the requirements of OAR 340-224-0025.

(90) "Major New Source Review" or "Major NSR" means the new source review process and requirements under OAR 340-224-0010 through 340-224-0070 and 340-224-0500 through 340-224-0540 based on the location and regulated pollutants emitted.

(91) "Major source":

(a) Except as provided in subsection (b) of this section, means a source that emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate. The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.

(b) As used in OAR 340 division 210, Stationary Source Notification Requirements, OAR 340 division 218, Oregon Title V Operating Permits, OAR 340 division 220, Oregon Title V Operating Permit Fees, 340-216-0066, Standard ACDPs, and OAR 340 division 236, Emission Standards for Specific Industries, means any stationary source or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person or persons under common control belonging to a single major industrial grouping or supporting the major industrial group and that is described in paragraphs (A), (B), or (C). For the purposes of this subsection, a stationary source or group of stationary sources is considered part of a single industrial grouping if all of the regulated pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.

(A) A major source of hazardous air pollutants, which means:

(i) For hazardous air pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any hazardous air pollutants that has been listed pursuant to under OAR 340-244-0040; 25 tons per year or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Emissions from any oil or gas exploration or production well, along with its associated equipment, and emissions from any pipeline compressor or pump station will not be

aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" will have the meaning specified by the Administrator by rule.

(B) A major stationary source of regulated pollutants, as defined in section 302 of the FCAA, that directly emits or has the potential to emit 100 tons per year or more of any regulated pollutant, except greenhouse gases, including any major source of fugitive emissions of any such regulated pollutant. The fugitive emissions of a stationary source are not considered in determining whether it is a major stationary source for the purposes of section 302(j) of the FCAA, unless the source belongs to one of the following categories of stationary sources:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 50 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants, excluding ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

(xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(xxvii) Any other stationary source category, that as of August 7, 1980 is being regulated under section 111 or 112 of the FCAA.

(C) From July 1, 2011 through November 6, 2014, a major stationary source of regulated pollutants, as defined by Section 302 of the FCAA, that directly emits or has the potential to emit 100 tons per year or more of greenhouse gases and directly emits or has the potential to emit 100,000 tons per year or more CO₂e, including fugitive emissions.

(92) "Material balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process.

(93) "Modification," except as used in the terms "major modification" "permit modification" and "Title I modification," means any physical change to, or change in the method of operation of, a source or part of a source that results in an increase in the source or part of the source's potential to emit any regulated pollutant on an hourly basis. Modifications do not include the following:

(a) Increases in hours of operation or production rates that do not involve a physical change or change in the method of operation;

(b) Changes in the method of operation due to using an alternative fuel or raw material that the source or part of a source was physically capable of accommodating during the baseline period; and

(c) Routine maintenance, repair and like-for-like replacement of components unless they increase the expected life of the source or part of a source by using component upgrades that would not otherwise be necessary for the source or part of a source to function.

(94) "Monitoring" means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Monitoring may include record keeping if the records are used to determine or assess compliance with an emission limitation or standard such as records of raw material content and usage, or records documenting compliance with work practice requirements. Monitoring may include conducting compliance method tests, such as the procedures in appendix A to 40 CFR part 60, on a routine periodic basis. Requirements to conduct such tests on a one-time basis, or at such times as a regulatory authority may require on a non-regular basis, are not considered monitoring requirements for purposes of this definition. Monitoring may include one or more than one of the following data collection techniques as appropriate for a particular circumstance:

(a) Continuous emission or opacity monitoring systems.

(b) Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.

(c) Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).

(d) Maintaining and analyzing records of fuel or raw materials usage.

(e) Recording results of a program or protocol to conduct specific operation and maintenance procedures.

(f) Verifying emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.

(g) Visible emission observations and recording.

(h) Any other form of measuring, recording, or verifying on a routine basis emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.

(95) "Natural gas" means a naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal component is methane.

(96) "Netting basis" means an emission rate determined as specified in OAR 340-222-0046.

(97) "Nitrogen oxides" or "NOx" means all oxides of nitrogen except nitrous oxide.

(98) "Nonattainment area" means a geographical area of the state, as designated by the EQC or the EPA, that exceeds any state or federal primary or secondary ambient air quality standard. Nonattainment areas are designated by the EQC according to division 204.

(99) "Nonattainment pollutant" means a regulated pollutant for which an area is designated a nonattainment area. Nonattainment areas are designated by the EQC according to division 204.

(100) "Normal source operation" means operation that does not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.

(101) "Odor" means that property of an air contaminant that affects the sense of smell.

(102) "Offset" means an equivalent or greater emission reduction that is required before allowing an emission increase from a source that is subject to Major NSR or State NSR.

(103) "Opacity" means the degree to which emissions, excluding uncombined water, reduce the transmission of light and obscure the view of an object in the background as measured by EPA Method 9 or other method, as specified in each applicable rule.

(104) "Oregon Title V operating permit" or "Title V permit" means written authorization issued, renewed, amended, or revised ~~pursuant to~~ under OAR 340 division 218.

(105) "Oregon Title V operating permit program" or "Title V program" means the Oregon program described in OAR 340 division 218 and approved by the Administrator under 40 CFR part 70.

(106) "Oregon Title V operating permit program source" or "Title V source" means any source subject to the permitting requirements, OAR 340 division 218.

(107) "Ozone precursor" means nitrogen oxides and volatile organic compounds.

(108) "Ozone season" means the contiguous 3 month period during which ozone exceedances typically occur, i.e., June, July, and August.

(109) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

(110) "Particulate matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by the test method specified in each applicable rule, or where not specified by rule, in the permit.

(111) "Permit" means an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit, permit attachment and any amendments or modifications thereof.

(112) "Permit modification" means a permit revision that meets the applicable requirements of OAR 340 division 216, OAR 340 division 224, or OAR 340-218-0160 through 340-218-0180.

(113) "Permit revision" means any permit modification or administrative permit amendment.

(114) "Permitted emissions" as used in OAR 340 division 220 means each regulated pollutant portion of the PSEL, as identified in an ACDP, Oregon Title V Operating Permit, review report, or by DEQ ~~pursuant to~~under OAR 340-220-0090.

(115) "Permittee" means the owner or operator of a source, authorized to emit regulated pollutants under an ACDP or Oregon Title V Operating Permit.

(116) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State of Oregon and any agencies thereof, and the federal government and any agencies thereof.

(117) "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual regulated pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one permitted emission for purposes of Oregon Title V Operating Permit Fees in OAR 340 division 220.

(118) "Plywood" means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.

(119) "PM10":

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified by rule, in each individual permit;

(b) When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured under 40 CFR part 50, Appendix J or an equivalent method designated under 40 CFR part 53.

(120) "PM2.5":

(a) When used in the context of direct PM2.5 emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified by rule, in each individual permit.

(b) When used in the context of PM2.5 precursor emissions, means sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emitted to the ambient air as measured by the test method specified in each applicable rule or, where not specified by rule, in each individual permit.

(c) When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured under 40 CFR part 50, Appendix L, or an equivalent method designated under 40 CFR part 53.

(121) "PM2.5 fraction" means the fraction of PM2.5 in relation to PM10 for each emissions unit that is included in the netting basis and PSEL.

(122) "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated pollutant.

(123) "Portable" means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(124) "Potential to emit" or "PTE" means the lesser of:

(a) The regulated pollutant emissions capacity of a stationary source; or

(b) The maximum allowable regulated pollutant emissions taking into consideration any physical or operational limitation, including use of control devices and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation is enforceable by the Administrator.

(c) This definition does not alter or affect the use of this term for any other purposes under the FCAA or the term "capacity factor" as used in Title IV of the FCAA and the regulations promulgated thereunder. Secondary emissions are not considered in determining the potential to emit.

(125) "ppm" means parts per million by volume unless otherwise specified in the applicable rule or an individual permit. It is a dimensionless unit of measurement for gases that expresses the ratio of the volume of one component gas to the volume of the entire sample mixture of gases.

(126) "Predictive emission monitoring system" or "PEMS" means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

(127) "Press/cooling vent" means any opening through which particulate and gaseous emissions from plywood, particleboard, or hardboard manufacturing are exhausted, either by natural draft or powered fan, from the building housing the process. Such openings are generally located immediately above the board press, board unloader, or board cooling area.

(128) "Process upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.

(129) "Proposed permit" means the version of an Oregon Title V Operating Permit that DEQ or LRAPA proposes to issue and forwards to the Administrator for review in compliance with OAR 340-218-0230.

(130) "Reattainment area" means an area that is designated as nonattainment and has three consecutive years of monitoring data that shows the area is meeting the ambient air quality standard for the regulated pollutant for which the area was designated a nonattainment area, but a formal redesignation by EPA has not yet been approved. Reattainment areas are designated by the EQC according to division 204.

(131) "Reattainment pollutant" means a regulated pollutant for which an area is designated a reattainment area.

(132) "Reference method" means any method of sampling and analyzing for a regulated pollutant as specified in 40 CFR part 52, 60, 61 or 63.

(133) "Regional agency" means Lane Regional Air Protection Agency.

(134) "Regulated air pollutant" or "Regulated pollutant":

(a) Except as provided in subsections (b), ~~and~~ (c) and (d), means:

(A) Nitrogen oxides or any VOCs;

(B) Any pollutant for which an ambient air quality standard has been promulgated, including any precursors to such pollutants;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the FCAA;

(D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the FCAA;

(E) Any pollutant listed under OAR 340-244-0040 or 40 CFR 68.130; ~~and~~

(F) Greenhouse gases; and

(G) Toxic Air Contaminants.

(b) As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, regulated pollutant means particulate matter, volatile organic compounds, oxides of nitrogen and sulfur dioxide.

(c) As used in OAR 340 division 222, Plant Site Emission Limits and division 224, New Source Review, regulated pollutant does not include any pollutant listed in OAR 340 divisions 244 and 246.

(d) As used in OAR 340 division 202 Ambient Air Quality Standards And PSD Increments through division 210 Stationary Source Notification Requirements; division 215 Greenhouse Reporting Requirements; division 222 Stationary Source Plant Site Emission Limits through division 244 Oregon Federal Hazardous Air Pollutant Program; and division 248 Asbestos Requirements through division 268 Emission Reduction Credits; regulated pollutant means only the air contaminants listed under paragraphs (a)(A) through (F).

(135) "Removal efficiency" means the performance of an air pollution control device in terms of the ratio of the amount of the regulated pollutant removed from the airstream to the total amount of regulated pollutant that enters the air pollution control device.

(136) "Renewal" means the process by which a permit is reissued at the end of its term.

(137) "Responsible official" means one of the following:

(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(B) The delegation of authority to such representative is approved in advance by DEQ or LRAPA.

(b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this division, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of EPA (e.g., a Regional Administrator of the EPA); or

(d) For affected sources:

(A) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the FCAA or the regulations promulgated there under are concerned; and

(B) The designated representative for any other purposes under the Oregon Title V Operating Permit program.

(138) "Secondary emissions" means emissions that are a result of the construction and/or operation of a source or modification, but that do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships and trains coming to or from a facility;

(b) Emissions from off-site support facilities that would be constructed or would otherwise increase emissions as a result of the construction or modification of a source.

(139) "Section 111" means section 111 of the FCAA, 42 U.S.C. § 7411, which includes Standards of Performance for New Stationary Sources (NSPS).

(140) "Section 111(d)" means subsection 111(d) of the FCAA, 42 U.S.C. § 7411(d), which requires states to submit to the EPA plans that establish standards of performance for existing sources and provides for implementing and enforcing such standards.

(141) "Section 112" means section 112 of the FCAA, 42 U.S.C. § 7412, which contains regulations for Hazardous Air Pollutants.

(142) "Section 112(b)" means subsection 112(b) of the FCAA, 42 U.S.C. § 7412(b), which includes the list of hazardous air pollutants to be regulated.

(143) "Section 112(d)" means subsection 112(d) of the FCAA, 42 U.S.C. § 7412(d), which directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by the EPA when establishing the emission standards.

(144) "Section 112(e)" means subsection 112(e) of the FCAA, 42 U.S.C. § 7412(e), which directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.

(145) "Section 112(r)(7)" means subsection 112(r)(7) of the FCAA, 42 U.S.C. § 7412(r)(7), which requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.

(146) "Section 114(a)(3)" means subsection 114(a)(3) of the FCAA, 42 U.S.C. § 7414(a)(3), which requires enhanced monitoring and submission of compliance certifications for major sources.

(147) "Section 129" means section 129 of the FCAA, 42 U.S.C. § 7429, which requires the EPA to establish emission standards and other requirements for solid waste incineration units.

(148) "Section 129(e)" means subsection 129(e) of the FCAA, 42 U.S.C. § 7429(e), which requires solid waste incineration units to obtain Oregon Title V Operating Permits.

(149) "Section 182(f)" means subsection 182(f) of the FCAA, 42 U.S.C. § 7511a(f), which requires states to include plan provisions in the SIP for NO_x in ozone nonattainment areas.

(150) "Section 182(f)(1)" means subsection 182(f)(1) of the FCAA, 42 U.S.C. § 7511a(f)(1), which requires states to apply those plan provisions developed for major VOC sources and major NO_x sources in ozone nonattainment areas.

(151) "Section 183(e)" means subsection 183(e) of the FCAA, 42 U.S.C. § 7511b(e), which requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.

(152) "Section 183(f)" means subsection 183(f) of the FCAA, 42 U.S.C. § 7511b(f), which requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.

(153) "Section 184" means section 184 of the FCAA, 42 U.S.C. § 7511c, which contains regulations for the control of interstate ozone air pollution.

(154) "Section 302" means section 302 of the FCAA, 42 U.S.C. § 7602, which contains definitions for general and administrative purposes in the FCAA.

(155) "Section 302(j)" means subsection 302(j) of the FCAA, 42 U.S.C. § 7602(j), which contains definitions of "major stationary source" and "major emitting facility."

(156) "Section 328" means section 328 of the FCAA, 42 U.S.C. § 7627, which contains regulations for air pollution from outer continental shelf activities.

(157) "Section 408(a)" means subsection 408(a) of the FCAA, 42 U.S.C. § 7651g(a), which contains regulations for the Title IV permit program.

(158) "Section 502(b)(10) change" means a change which contravenes an express permit term but is not a change that:

(a) Would violate applicable requirements;

(b) Would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or

(c) Is a FCAA Title I modification.

(159) "Section 504(b)" means subsection 504(b) of the FCAA, 42 U.S.C. § 7661c(b), which states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.

(160) "Section 504(e)" means subsection 504(e) of the FCAA, 42 U.S.C. § 761c(e), which contains regulations for permit requirements for temporary sources.

(161) "Significant emission rate" or "SER," except as provided in subsections (v) and (w), means an emission rate equal to or greater than the rates specified for the regulated pollutants below:

(a) Greenhouse gases (CO₂e) = 75,000 tons per year

- (b) Carbon monoxide = 100 tons per year except in a serious nonattainment area = 50 tons per year, provided DEQ has determined that stationary sources contribute significantly to carbon monoxide levels in that area.
- (c) Nitrogen oxides (NOX) = 40 tons per year.
- (d) Particulate matter = 25 tons per year.
- (e) PM10 = 15 tons per year.
- (f) Direct PM2.5 = 10 tons per year.
- (g) PM2.5 precursors (SO₂ or NO_x) = 40 tons per year.
- (h) Sulfur dioxide (SO₂) = 40 tons per year.
- (i) Ozone precursors (VOC or NO_x) = 40 tons per year except:
- (I) In a serious or severe ozone nonattainment area = 25 tons per year.
- (II) In an extreme ozone nonattainment area = any emissions increase.
- (j) Lead = 0.6 tons per year.
- (k) Fluorides = 3 tons per year.
- (l) Sulfuric acid mist = 7 tons per year.
- (m) Hydrogen sulfide = 10 tons per year.
- (n) Total reduced sulfur (including hydrogen sulfide) = 10 tons per year.
- (o) Reduced sulfur compounds (including hydrogen sulfide) = 10 tons per year.
- (p) Municipal waste combustor organics (measured as total tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans) = 0.0000035 tons per year.
- (q) Municipal waste combustor metals (measured as particulate matter) = 15 tons per year.
- (r) Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride) = 40 tons per year.
- (s) Municipal solid waste landfill emissions (measured as nonmethane organic compounds) = 50 tons per year.
- (t) Ozone depleting substances in aggregate = 100 tons per year.

(u) For the Medford-Ashland Air Quality Maintenance Area, the SER for PM10 is defined as 5 tons per year on an annual basis and 50.0 pounds per day on a daily basis.

(v) For regulated pollutants not listed in subsections (a) through (u), the SER is zero unless DEQ determines the rate that constitutes a SER.

(w) Any new source or modification with an emissions increase less than the rates specified above and that is located within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 $\mu\text{g}/\text{m}^3$ (24 hour average) is emitting at a SER. This subsection does not apply to greenhouse gas emissions.

(162) "Significant impact" means an additional ambient air quality concentration equal to or greater than the significant impact level. For sources of VOC or NO_x, a source has a significant impact if it is located within the ozone impact distance defined in OAR 340 division 224.

(163) "Significant impact level" or "SIL" means the ambient air quality concentrations listed below. The threshold concentrations listed below are used for comparison against the ambient air quality standards and PSD increments established under OAR 340 division 202, but do not apply for protecting air quality related values, including visibility.

(a) For Class I areas:

(A) PM_{2.5}:

(i) Annual = 0.06 $\mu\text{g}/\text{m}^3$.

(ii) 24-hour = 0.07 $\mu\text{g}/\text{m}^3$.

(B) PM₁₀:

(i) Annual = 0.20 $\mu\text{g}/\text{m}^3$.

(ii) 24-hour = 0.30 $\mu\text{g}/\text{m}^3$.

(C) Sulfur dioxide:

(i) Annual = 0.10 $\mu\text{g}/\text{m}^3$.

(ii) 24-hour = 0.20 $\mu\text{g}/\text{m}^3$.

(iii) 3-hour = 1.0 $\mu\text{g}/\text{m}^3$.

(D) Nitrogen dioxide: annual = 0.10 $\mu\text{g}/\text{m}^3$.

(b) For Class II areas:

(A) PM2.5:

(i) Annual = 0.3 $\mu\text{g}/\text{m}^3$.

(ii) 24-hour = 1.2 $\mu\text{g}/\text{m}^3$.

(B) PM10:

(i) Annual = 0.20 $\mu\text{g}/\text{m}^3$.

(ii) 24-hour = 1.0 $\mu\text{g}/\text{m}^3$.

(C) Sulfur dioxide:

(i) Annual = 1.0 $\mu\text{g}/\text{m}^3$.

(ii) 24-hour = 5.0 $\mu\text{g}/\text{m}^3$.

(iii) 3-hour = 25.0 $\mu\text{g}/\text{m}^3$.

(iv) 1-hour = 8.0 $\mu\text{g}/\text{m}^3$.

(D) Nitrogen dioxide:

(i) Annual = 1.0 $\mu\text{g}/\text{m}^3$.

(ii) 1-hour = 8.0 $\mu\text{g}/\text{m}^3$.

(E) Carbon monoxide:

(i) 8-hour = 0.5 mg/m^3 .

(ii) 1-hour = 2.0 mg/m^3 .

(c) For Class III areas:

(A) PM2.5:

(i) Annual = 0.3 $\mu\text{g}/\text{m}^3$.

(ii) 24-hour = 1.2 $\mu\text{g}/\text{m}^3$.

(B) PM10:

(i) Annual = 0.20 $\mu\text{g}/\text{m}^3$.

(ii) 24-hour = 1.0 $\mu\text{g}/\text{m}^3$.

(C) Sulfur dioxide:

(i) Annual = 1.0 $\mu\text{g}/\text{m}^3$.

(ii) 24-hour = 5.0 $\mu\text{g}/\text{m}^3$.

(iii) 3-hour = 25.0 $\mu\text{g}/\text{m}^3$.

(D) Nitrogen dioxide: annual = 1.0 $\mu\text{g}/\text{m}^3$

(E) Carbon monoxide:

(i) 8-hour = 0.5 mg/m^3 .

(ii) 1-hour = 2.0 mg/m^3 .

(164) "Significant impairment" occurs when DEQ determines that visibility impairment interferes with the management, protection, preservation, or enjoyment of the visual experience within a Class I area. DEQ will make this determination on a case-by-case basis after considering the recommendations of the Federal Land Manager and the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered along with visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(165) "Small scale local energy project" means:

(a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or indirectly uses or enables the use of, by the owner or operator, renewable resources including, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to produce energy, including heat, electricity and substitute fuels, to meet a local community or regional energy need in this state;

(b) A system, mechanism or series of mechanisms located primarily in Oregon or providing substantial benefits to Oregon that directly or indirectly conserves energy or enables the conservation of energy by the owner or operator, including energy used in transportation;

(c) A recycling project;

(d) An alternative fuel project;

(e) An improvement that increases the production or efficiency, or extends the operating life, of a system, mechanism, series of mechanisms or project otherwise described in this section of this rule, including but not limited to restarting a dormant project;

(f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility that directly or indirectly reduces the amount of energy needed for the construction and operation of the facility and that meets the sustainable building practices standard established by the State Department of Energy by rule; or

(g) A project described in subsections (a) to (f), whether or not the existing project was originally financed under ORS 470, together with any refinancing necessary to remove prior liens or encumbrances against the existing project.

(h) A project described in subsections (a) to (g) that conserves energy or produces energy by generation or by processing or collection of a renewable resource.

(166) "Source" means any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all air contaminant emitting activities that belong to a single major industrial group, i.e., that have the same two-digit code, as described in the Standard Industrial Classification Manual, U.S. Office of Management and Budget, 1987, or that support the major industrial group.

(167) "Source category":

(a) Except as provided in subsection (b), means all the regulated pollutant emitting activities that belong to the same industrial grouping, i.e., that have the same two-digit code, as described in the Standard Industrial Classification Manual, U.S. Office of Management and Budget, 1987.

(b) As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, means a group of major sources that DEQ determines are using similar raw materials and have equivalent process controls and pollution control device.

(168) "Source test" means the average of at least three test runs conducted under the DEQ Source Sampling Manual.

(169) "Standard conditions" means a temperature of 68° Fahrenheit (20° Celsius) and a pressure of 14.7 pounds per square inch absolute (1.03 Kilograms per square centimeter).

(170) "Startup" and "shutdown" means that time during which a source or control device is brought into normal operation or normal operation is terminated, respectively.

(171) "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040 and approved by EPA.

(172) "State New Source Review" or "State NSR" means the new source review process and requirements under OAR 340-224-0010 through 340-224-0038, 340-224-0245 through 340-224-0270 and 340-224-0500 through 340-224-0540 based on the location and regulated pollutants emitted.

(173) "Stationary source" means any building, structure, facility, or installation at a source that emits or may emit any regulated pollutant. Stationary source includes portable sources that are required to have permits under OAR 340 division 216.

(174) "Substantial underpayment" means the lesser of 10 percent of the total interim emission fee for the major source or five hundred dollars.

(175) "Sustainment area" means a geographical area of the state for which DEQ has ambient air quality monitoring data that shows an attainment or unclassified area could become a nonattainment area but a formal redesignation by EPA has not yet been approved. The presumptive geographic boundary of a sustainment area is the applicable urban growth boundary in effect on the date this rule was last approved by the EQC, unless superseded by rule. Sustainment areas are designated by the EQC according to division 204.

(176) "Sustainment pollutant" means a regulated pollutant for which an area is designated a sustainment area.

(177) "Synthetic minor source" means a source that would be classified as a major source under OAR 340-200-0020, but for limits on its potential to emit regulated pollutants contained in an ACDP or Oregon Title V permit issued by DEQ.

(178) "Title I modification" means one of the following modifications ~~pursuant to~~ under Title I of the FCAA:

(a) A major modification subject to OAR 340-224-0050, Requirements for Sources in Nonattainment Areas or OAR 340-224-0055, Requirements for Sources in Reattainment Areas;

(b) A major modification subject to OAR 340-224-0060, Requirements for Sources in Maintenance Areas;

(c) A major modification subject to OAR 340-224-0070, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas or 340-224-0045 Requirements for Sources in Sustainment Areas;

(d) A modification that is subject to a New Source Performance Standard under Section 111 of the FCAA; or,

(e) A modification under Section 112 of the FCAA.

(179) "Total reduced sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H₂S).

(180) "Toxic Air Contaminants" means the air pollutants listed in OAR 340-245-8020 Table 2.

~~(180)~~(181) "Type A State NSR" means State NSR as specified in OAR 340-224-0010(2)(a).

(~~181~~182) "Type B State NSR" means State NSR that is not Type A State NSR.

(~~182~~183) "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit under OAR 340-226-0130.

(~~183~~184) "Unassigned emissions" means the amount of emissions that are in excess of the PSEL but less than the netting basis.

(~~184~~185) "Unavoidable" or "could not be avoided" means events that are not caused entirely or in part by design, operation, maintenance, or any other preventable condition in either process or control device.

(~~185~~186) "Unclassified area" or "attainment area" means an area that has not otherwise been designated by EPA as nonattainment with ambient air quality standards for a particular regulated pollutant. Attainment areas or unclassified areas may also be referred to as sustainment or maintenance areas as designated in OAR 340 division 204. Any particular location may be part of an attainment area or unclassified area for one regulated pollutant while also being in a different type of designated area for another regulated pollutant.

(~~186~~187) "Upset" or "Breakdown" means any failure or malfunction of any pollution control device or operating equipment that may cause excess emissions.

(~~187~~188) "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

(~~188~~189) "Veneer dryer" means equipment in which veneer is dried.

(~~189~~190) "Visibility impairment" means any humanly perceptible change in visual range, contrast or coloration from that which existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

(~~190~~191) "Volatile organic compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

(a) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

(A) Methane;

(B) Ethane;

(C) Methylene chloride (dichloromethane);

(D) 1,1,1-trichloroethane (methyl chloroform);

- (E) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
- (F) Trichlorofluoromethane (CFC-11);
- (G) Dichlorodifluoromethane (CFC-12);
- (H) Chlorodifluoromethane (HCFC-22);
- (I) Trifluoromethane (HFC-23);
- (J) 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
- (K) Chloropentafluoroethane (CFC-115);
- (L) 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
- (M) 1,1,1,2-tetrafluoroethane (HFC-134a);
- (N) 1,1-dichloro 1-fluoroethane (HCFC-141b);
- (O) 1-chloro 1,1-difluoroethane (HCFC-142b);
- (P) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
- (Q) Pentafluoroethane (HFC-125);
- (R) 1,1,2,2-tetrafluoroethane (HFC-134);
- (S) 1,1,1-trifluoroethane (HFC-143a);
- (T) 1,1-difluoroethane (HFC-152a);
- (U) Parachlorobenzotrifluoride (PCBTF);
- (V) Cyclic, branched, or linear completely methylated siloxanes;
- (W) Acetone;
- (X) Perchloroethylene (tetrachloroethylene);
- (Y) 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
- (Z) 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
- (AA) 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);

(BB) Difluoromethane (HFC-32);

(CC) Ethylfluoride (HFC-161);

(DD) 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);

(EE) 1,1,2,2,3-pentafluoropropane (HFC-245ca);

(FF) 1,1,2,3,3-pentafluoropropane (HFC-245ea);

(GG) 1,1,1,2,3-pentafluoropropane (HFC-245eb);

(HH) 1,1,1,3,3-pentafluoropropane (HFC-245fa);

(II) 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);

(JJ) 1,1,1,3,3-pentafluorobutane (HFC-365mfc);

(KK) chlorofluoromethane (HCFC-31);

(LL) 1 chloro-1-fluoroethane (HCFC-151a);

(MM) 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);

(NN) 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄ F₉ OCH₃ or HFE-7100);

(OO) 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂ CFCF₂ OCH₃);

(PP) 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄ F₉ OC₂ H₅ or HFE-7200);

(QQ) 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂ CFCF₂ OC₂ H₅);

(RR) Methyl acetate;

(SS) 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C₃F₇OCH₃, HFE-7000);

(TT) 3-ethoxy- 1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500);

(UU) 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea);

(VV) Methyl formate (HCOOCH₃);

(WW) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300);

(XX) Propylene carbonate;

(YY) Dimethyl carbonate;

(ZZ) Trans -1,3,3,3-tetrafluoropropene (also known as HFO-1234ze);

(AAA) HCF₂ OCF₂ H (HFE-134);

(BBB) HCF₂ OCF₂ OCF₂ H (HFE-236cal2);

(CCC) HCF₂ OCF₂ CF₂ OCF₂ H (HFE-338pcc13);

(DDD) HCF₂ OCF₂ OCF₂ CF₂ OCF₂ H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));

(EEE) Trans 1-chloro-3,3,3-trifluoroprop-1-ene (also known as SolsticeTM 1233zd(E));

(FFF) 2,3,3,3-tetrafluoropropene (also known as HFO-1234yf);

(GGG) 2-amino-2-methyl-1-propanol; and

(HHH) perfluorocarbon compounds which fall into these classes:

(i) Cyclic, branched, or linear, completely fluorinated alkanes;

(ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in the DEQ Source Sampling Manual. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and DEQ approves the exclusion.

(c) DEQ may require an owner or operator to provide monitoring or testing methods and results demonstrating, to DEQ's satisfaction, the amount of negligibly-reactive compounds in the source's emissions.

(d) The following compounds are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and must be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

(~~191~~192) "Wood fired veneer dryer" means a veneer dryer, that is directly heated by the products of combustion of wood fuel in addition to or exclusive of steam or natural gas or propane combustion.

(~~192~~193) "Wood fuel-fired device" means a device or appliance designed for wood fuel combustion, including cordwood stoves, woodstoves and fireplace stove inserts, fireplaces, wood fuel-fired cook stoves, pellet stoves and combination fuel furnaces and boilers that burn wood fuels.

(~~193~~194) "Year" means any consecutive 12 month period of time.

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

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table\(s\).](#)]

Stat. Auth.: ORS 468.020 & 468A

Stats. Implemented: ORS 468A.025, 468A.035, 468A.040, 468A.050, 468A.055, 468A.070, 468A.075, 468A.085, 468A.105, 468A.135, 468A.140, 468A.155, 468A.280, 468A.310, 468A.315, 468A.360, 468A.363, 468A.380, 468A.385, 468A.420, 468A.495, 468A.500, 468A.505, 468A.515, 468A.575, 468A.595, 468A.600, 468A.610, 468A.612, 468A.620, 468A.635, 468A.707, 468A.740, 468A.745, 468A.750, 468A.775, 468A.780, 468A.797, 468A.799, 468A.803, 468A.820, & Or. Laws 2009, chapter 754

Hist.: [DEQ 15-1978, f. & ef. 10-13-78; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033.04; DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989, f. & cert. ef. 6-26-89; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0145, 340-020-0225, 340-020-0305, 340-020-0355, 340-020-0460 & 340-020-0520; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 21-1998, f. & cert. ef. 10-14-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0205, 340-028-0110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 11-2013, f. &

cert. ef. 11-7-13; DEQ 12-2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15; DEQ 7-2015, f. & cert. ef. 4-16-15

340-200-0035.

Reference Materials

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

(1) "CFR" means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, ~~2014~~2018 edition.

(2) The DEQ Source Sampling Manual refers to the ~~March 2015~~November 2018 edition.

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

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

[ED. NOTE: Manuals referenced are not included in rule text. [Click here for PDF copy of manuals.](#)]

Stat. Auth.: ORS 468.020 & 468A

Stats. Implemented: ORS 468A

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

340-200-0040.

State of Oregon Clean Air Act Implementation Plan

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

(2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR 340 division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the EPA for approval. The SIP was last modified by the EQC on ~~July 12, 2017~~March 22, 2018.

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

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

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

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

Stat. Auth.: ORS 468.020 & 468A

Stats. Implemented: ORS 468A.035 & 468A.135

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996(Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000 f. & cert. ef. 12-15-00; DEQ 21-2000, f. &

cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2008, f. & cert. ef. 3-20-08; DEQ 11-2008, f. & cert. ef. 8-29-08; DEQ 12-2008, f. & cert. ef. 9-17-08; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 3-2009, f. & cert. ef. 6-30-09; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 2-2010, f. & cert. ef. 3-5-10; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 14-2010, f. & cert. ef. 12-10-10; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 18-2011, f. & cert. ef. 12-21-11; DEQ 1-2012, f. & cert. ef. 5-17-12; DEQ 7-2012, f. & cert. ef. 12-10-12; DEQ 10-2012, f. & cert. ef. 12-11-12; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 11-2013, f. & cert. ef. 11-7-13; DEQ 12-2013, f. & cert. ef. 12-19-13; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 4-2014, f. & cert. ef. 3-31-14; DEQ 5-2014, f. & cert. ef. 3-31-14; DEQ 6-2014, f. & cert. ef. 3-31-14; DEQ 7-2014, f. & cert. ef. 6-26-14; DEQ 6-2015, f. & cert. ef. 4-16-15; DEQ 7-2015, f. & cert. ef. 4-16-15; DEQ 10-2015, f. & cert. ef. 10-16-15; DEQ 14-2015, f. & cert. ef. 12-10-15; DEQ 2-2017, f. & cert. ef. 1-19-17; DEQ 7-2017, f. & cert. ef. 7-13-17

DIVISION 209

PUBLIC PARTICIPATION

340-209-0020,

Applicability

This division applies to permit actions requiring public notice as specified in OAR 340, divisions 216, ~~and~~ 218 and 245.

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

Stat. Auth.: ORS 468.020, 468.065 & 468A.310

Stats. Implemented: ORS 468.065, 468A.035, 468A.040 & 468A.310

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2015, f. & cert. ef. 4-16-15

340-209-0030,

Public Notice Categories and Timing

(1) DEQ categorizes permit actions according to potential environmental and public health significance and the degree to which DEQ has discretion for implementing the applicable regulations. Category I is for permit actions with low environmental and public health significance so they have less public notice and opportunity for public participation. Category IV is for permit actions with potentially high environmental and public health significance so they have the greatest level of public notice and opportunity for participation.

(2) Permit actions are assigned to specific categories in OAR 340, divisions 216, ~~and 218,~~ and 245. If a permit action is uncategorized, the permit action will be processed under Category III.

(3) The following describes the public notice or participation requirements for each category:

(a) Category I — No prior public notice or opportunity for participation. However, DEQ will maintain a list of all permit actions processed under Category I and make the list available for public review.

(b) Category II — DEQ will provide public notice of the proposed permit action and a minimum of 30 days to submit written comments.

(c) Category III — DEQ will provide public notice of the proposed permit action and a minimum of 35 days to submit written comments. DEQ will provide a minimum of 30 days' notice for a hearing, if one is scheduled. DEQ will schedule a hearing at a reasonable time and place to allow interested persons to submit oral or written comments if:

(A) DEQ determines that a hearing is necessary; or

(B) Within 35 days of the mailing of the public notice, DEQ receives written requests from ten persons, or from an organization representing at least ten persons, for a hearing.

(d) Category IV — Once an application is considered complete under OAR 340-216-0040, DEQ will:

(A)(i) Provide notice of the completed application and requested permit action; and

(ii) Schedule an informational meeting within the community where the facility will be or is located and provide public notice at least 14 days before the meeting. During the meeting, DEQ will describe the requested permit action and accept comments from the public. DEQ will consider any information gathered in this process in its drafting of the proposed permit, but will not maintain an official record of the meeting and will not provide a written response to the comments;

(B) Once a draft permit is completed, provide public notice of the proposed permit and a minimum of 40 days to submit written comments; and

(C) 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.

(4) Except for actions regarding Oregon Title V Operating Permits, DEQ may move a permit action to a higher category under section (3) based on, but not limited to the following factors:

- (a) Anticipated public interest in the facility;
- (b) Compliance and enforcement history of the facility or owner;
- (c) Potential for significant environmental or public harm due to location or type of facility; or
- (d) Federal requirements.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.

Statutory/Other Authority: ORS 468.020, 468.065 & 468A.310

Statutes/Other Implemented: ORS 468.065 & 468A.035, 468A.040 & 468A.310

History:

DEQ 123-2018, minor correction filed 04/11/2018, effective 04/11/2018

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

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

DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-209-0040,

Public Notice Information

(1) The following information is required in public notices for all proposed ACDP, ~~and~~ draft Oregon Title V Operating Permit actions, and Toxic Air Contaminant Permit Addendums issued under division 245, except for General Permit actions:

- (a) Name of applicant and location of the facility;
- (b) Type of facility, including a description of the facility's processes subject to the permit;
- (c) Description of the air contaminant emissions including, the type of regulated pollutants, quantity of emissions, and any decreases or increases since the last permit action for the facility;
- (d) Location and description of documents relied upon in preparing the draft permit;
- (e) Other permits required by DEQ;
- (f) Date of previous permit actions;
- (g) Opportunity for public comment and a brief description of the comment procedures, whether in writing or in person, including the procedures for requesting a hearing (unless a hearing has already been scheduled or is not an option for the public notice category);

- (h) Compliance, enforcement, and complaint history along with resolution of the same;
- (i) A summary of the discretionary decisions made by DEQ in drafting the permit;
- (j) Type and duration of the proposed or draft permit action;
- (k) Basis of need for the proposed or draft permit action;
- (l) Any special conditions imposed in the proposed or draft permit action;
- (m) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment/unclassified, sustainment, nonattainment, reattainment or maintenance for that pollutant;
- (n) If the proposed permit action is for a federal major source, whether the proposed permitted emission would have a significant impact on a Class I airshed;
- (o) If the proposed permit action is for a major source for which dispersion modeling has been performed, an indication of what impact each proposed permitted emission would have on the ambient air quality standard and PSD increment consumption within an attainment area;
- (p) Other available information relevant to the permitting action;
- (q) The name and address of DEQ office processing the permit;
- (r) The name, address, and telephone number and e-mail address of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report, except for information that is exempt from disclosure, and all other materials available to DEQ that are relevant to the permit decision; ~~and~~
- (s) If applicable, a statement that an enhanced NSR process under OAR 340 division 224, including the external review procedures required under OAR 340-218-0210 and 340-218-0230, is being used to allow for subsequent incorporation of the operating approval into an Oregon Title V Operating Permit as an administrative amendment; ~~and~~

(t) For Toxic Air Contaminant Permit Addendums, a list of estimated toxic air contaminant emissions and, if applicable, a summary of the results of any risk assessment.

(2) General Permit Actions. The following information is required for General ACDP and General Oregon Title V Operating Permit actions:

- (a) The name and address of potential or actual facilities assigned to the General Permit;
- (b) Type of facility, including a description of the facility's process subject to the permit;

- (c) Description of the air contaminant emissions including, the type of regulated pollutants, quantity of emissions, and any decreases or increases since the last permit action for the potential or actual facilities assigned to the permit;
- (d) Location and description of documents relied upon in preparing the draft permit;
- (e) Other permits required by DEQ;
- (f) Date of previous permit actions;
- (g) Opportunity for public comment and a brief description of the comment procedures, whether in writing or in person, including the procedures for requesting a hearing (unless a hearing has already been scheduled or is not an option for the Public Notice category);
- (h) Compliance, enforcement, and complaint history along with resolution of the same;
- (i) A summary of the discretionary decisions made by DEQ in drafting the permit;
- (j) Type and duration of the proposed or draft permit action;
- (k) Basis of need for the proposed or draft permit action;
- (l) Any special conditions imposed in the proposed or draft permit action;
- (m) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the sources are located are designated as attainment or non-attainment for that pollutant;
- (n) If the proposed permit action is for a federal major source, whether the proposed permitted emission would have a significant impact on a Class I airshed;
- (o) Other available information relevant to the permitting action; and
- (p) The name and address of DEQ office processing the permit;
- (q) The name, address, and telephone number and e-mail address of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report, except for information that is exempt from disclosure, and all other materials available to DEQ that are relevant to the permit decision.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.

Stat. Auth.: ORS 468.020, 468.065 & 468A.310

Stats. Implemented: ORS 468.065 & 468A.035, 468A.040 & 468A.310

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-

76; Renumbered from 340-020-0033; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 34-1990, f. 8-20-90, cert. ef. 9-1-90; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0150; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1710; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-216-0050; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 7-2015, f. & cert. ef. 4-16-15

340-209-0050,

Public Notice Procedures

(1) All notices. DEQ will mail or email a notice of proposed permit actions to the persons identified in OAR 340-209-0060.

(2) NSR, Oregon Title V Operating Permit and General ACDP actions. In addition to section (1), DEQ will provide notice of NSR, Oregon Title V Operating Permit and General ACDP actions as follows:

(a) Advertisement in a newspaper of general circulation in the area where the source or sources are or will be located, electronic noticing (termed e-notice), or a DEQ publication designed to give general public notice; and

(b) Other means, if necessary, to assure adequate notice to the affected public.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.

Stat. Auth.: ORS 468.020, 468.065 & 468A.310

Stats. Implemented: ORS 468.065, 468A.035, 468A.040 & 468A.310

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2015, f. & cert. ef. 4-16-15

DIVISION 216

AIR CONTAMINANT DISCHARGE PERMITS

340-216-0020,

Applicability and Jurisdiction

(1) This division applies to all sources listed in OAR 340-216-8010. This division also applies to Oregon Title V Operating Permit program sources when an ACDP is required by 340-218-0020 or 340-224-0010. Sources referred to in 340-216-8010 are subject to fees in 340-216-8020.

(2) Sources in any one of the categories in OAR 340-216-8010 must obtain a permit. If a source meets the requirements of more than one of the source categories and the source is not eligible

for a Basic ACDP or a General ACDP that has been authorized by DEQ, then the source must obtain a Simple or Standard ACDP. Source categories are not listed in alphabetical order.

(a) The commercial and industrial sources in OAR 340-216-8010 Part A must obtain a Basic ACDP under 340-216-0056 unless the source chooses to obtain a General, Simple or Standard ACDP. For purposes of Part A, production and emission parameters are based on the latest consecutive 12 month period, or future projected operation, whichever is higher. Emission cutoffs are based on actual emissions.

(b) Sources in any one of the categories in OAR 340-216-8010 Part B must obtain one of the following unless otherwise allowed in Part B:

(A) A General ACDP, if one is available for the source classification and the source qualifies for a General ACDP under OAR 340-216-0060;

(B) A Simple ACDP under OAR 340-216-0064; or

(C) A Standard ACDP under OAR 340-216-0066 if the source fits one of the criteria of Part C or does not qualify for a Simple ACDP.

(c) Sources in any one of the categories in OAR 340-216-8010 Part C must obtain a Standard ACDP under the procedures set forth in OAR 340-216-0066.

(3) No person may construct, install, establish, develop or operate any air contaminant source listed in OAR 340-216-8010 without first obtaining an Air Contaminant Discharge Permit (ACDP) from DEQ or LRAPA and keeping a copy onsite at all times, unless otherwise deferred from the requirement to obtain an ACDP in subsection ~~(43)~~(b) or DEQ has granted an exemption from the requirement to obtain an ACDP under subsection ~~(43)~~(fe). No person may continue to operate an air contaminant source if the ACDP expires, or is terminated, denied, or revoked; except as provided in 340-216-0082.

(a) For portable sources, a single permit may be issued for operating at any area of the state if the permit includes the requirements from both DEQ and LRAPA. DEQ or LRAPA, depending where the portable source's corporate offices are located, will be responsible for issuing the permit. If the corporate office of a portable source is located outside of the state, DEQ will be responsible for issuing the permit.

(b) An air contaminant source required to obtain an ACDP or ACDP Attachment ~~pursuant to~~ under a NESHAP under OAR division 244 or NSPS under OAR division 238 is not required to submit an application for an ACDP or ACDP Attachment until four months after the effective date of the EQC's adoption of the NESHAP or NSPS, and is not required to obtain an ACDP or ACDP Attachment until six months after the EQC's adoption of the NESHAP or NSPS. In addition, DEQ may defer the requirement to submit an application for, or to obtain an ACDP or ACDP Attachment, or both, for up to an additional twelve months.

(c) Deferrals of Oregon permitting requirements do not relieve an air contaminant source from the responsibility of complying with federal NESHAP or NSPS requirements.

(d) OAR 340-216-0060(1)(b)(A), 340-216-0062(2)(b)(A), 340-216-0064(4)(a), and 340-216-0066(3)(a), do not relieve a permittee from the responsibility of complying with federal NESHAP or NSPS requirements that apply to the source even if DEQ has not incorporated such requirements into the permit.

(e) DEQ may exempt a source from the requirement to obtain an ACDP if it determines that the source is subject to only procedural requirements, such as notification that the source is affected by an NSPS or NESHAP.

(4) No person may construct, install, establish, or develop any source that will be subject to the Oregon Title V Operating Permit program without first obtaining an ACDP from DEQ or LRAPA.

(5) No person may modify any source that has been issued an ACDP without first complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(6) No person may modify any source required to have an ACDP such that the source becomes subject to the Oregon Title V Operating Permit program without complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(7) No person may increase emissions above the PSEL by more than the de minimis emission levels specified in OAR 340-200-0020 without first applying for and obtaining a modified ACDP.

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

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-211-0040 with the exception of all references to toxic air contaminants and OAR 340 division 245.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 468.020, 468A.025, 468A.040, 468A.155 & 468A.310

Stats. Implemented: ORS 468A.025, 468A.040, 468A.135 - 468A.155 & 468A.310

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f. 5-6-81, ef. 7-1-81; DEQ 11-1983, f. & ef. 5-31-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0155; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1994, f. & cert. ef. 10-4-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-

1720; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 7-2007, f. & cert. ef. 10-18-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; DEQ 12-2010, f. & cert. ef. 10-27-10; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 11-2011, f. & cert. ef. 7-21-11; DEQ 13-2011, f. & cert. ef. 7-21-11; DEQ 14-2011, f. & cert. ef. 7-21-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14; Administrative correction, 5-21-14; DEQ 9-2014, f. & cert. ef. 6-26-14; DEQ 7-2015, f. & cert. ef. 4-16-15

340-216-0030,

Definitions

The definitions in OAR 340-200-0020, 340-204-0010, 340-245-0020 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020, ~~or~~ 340-204-0010 or 340-245-0020, the definition in this rule applies to this division.

- (1) “Basic technical modification” includes, but is not limited to changing source test dates if the equipment is not being operated, and similar changes.
- (2) “Complex technical modification” includes, but is not limited to incorporating a complex new compliance method into a permit, adding a complex compliance method or monitoring for an emission point or control device not previously addressed in a permit, adding a complex new applicable requirement into a permit due to a change in process or change in rules, and similar changes.
- (3) “Moderate technical modification” includes, but is not limited to adding a simple compliance method or monitoring for an emission point or control device not previously addressed in a permit, revising monitoring and reporting requirements other than dates and frequency, adding a new applicable requirement into a permit due to a change in process or change in rules, incorporating NSPS and NESHAP requirements, and similar changes.
- (4) “Non-technical modification” means name changes, change of ownership, correction of typographical errors and similar administrative changes.
- (5) “Simple technical modification” includes, but is not limited to modifying a compliance method to use different emission factors or process parameters, changing reporting dates or frequency, and similar changes.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-211-0040.

Stat. Auth.: ORS 468.020 & 468A

Stats. Implemented: ORS 468A.025, 468A.040 & 468A.310

Hist.: DEQ 14-1999, f. & cert. ef. 10-14-99; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2015, f. & cert. ef. 4-16-15

340-216-0040.

Application Requirements

(1) New Permits.

(a) Except for Short Term Activity ACDPs, any person required to obtain a new ACDP must provide the following general information, as applicable, using forms provided by DEQ in addition to any other information required for a specific permit type:

(A) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business, Standard Industrial Classification (SIC) code;

(B) The name and phone number of a local person 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 production processes and related flow chart;

(E) A plot plan showing the location and height of air contaminant sources. The plot plan must also indicate the nearest residential or commercial property;

(F) The type and quantity of fuels used;

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

(H) Any information on pollution prevention measures and cross-media impacts the applicant wants DEQ to consider in determining applicable control requirements and evaluating compliance methods;

(I) Estimated efficiency of air pollution control devices 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;

(L) Any information required by OAR 340 divisions 224, ~~and~~ 225, and 245, including but not limited to control technology and analysis, air quality impact analysis; and information related to offsets and net air quality benefit, if applicable; and

(M) Any other information requested by DEQ.

(b) Applications for new permits must be submitted at least 60 days prior to when a permit is needed. When preparing an application, the applicant ~~must~~ also consider the timelines provided in paragraph (2)(b), as well as OAR 340-245-0030, Cleaner Air Oregon submittal and payment deadlines, and OAR 340-224-0030, permit applications subject to NSR, to allow DEQ adequate time to process the application and issue a permit before it is needed.

(2) Renewal Permits. Except for Short Term Activity ACDPs, any person required to renew an existing permit must submit the information identified in section (1) using forms provided by DEQ, unless there are no significant changes to the permit. If there are significant changes, the applicant must provide the information identified in section (1) only for those changes.

(a) Where there are no significant changes to the permit, the applicant may use a streamlined permit renewal application process by providing the following information:

(A) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business, Standard Industrial Classification (SIC) code, using a form provided by DEQ; and

(B) A marked up copy of the previous permit indicating minor changes along with an explanation for each requested change.

(b) The owner or operator must submit an application for renewal of the existing permit by no later than:

(A) 30 days prior to the expiration date of a Basic ACDP;

(B) 120 days prior to the expiration date of a Simple ACDP; or

(C) 180 days prior to the expiration date of a Standard ACDP.

(c) DEQ must receive an application for reassignment to General ACDPs and attachments within 30 days prior to expiration of the General ACDPs or attachment.

(3) Permit Modifications. For Simple and Standard ACDP modifications, the applicant must provide the information in section (1) relevant to the requested changes to the permit and a list of any new requirements applicable to those changes. When preparing an application, the applicant ~~must~~ also consider the timelines provided in subsection (2)(b), as well as OAR 340-224-0030, permit applications subject to NSR, to allow DEQ adequate time to process the application and issue a permit before it is needed.

- (4) Any owner or operator who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.
- (5) The application must be completed in full and signed by the applicant or the applicant's legally authorized representative.
- (6) Two copies of the application are required, unless otherwise requested by DEQ. At least one of the copies must be a paper copy, but the others may be in any other format, including electronic copies, upon approval by DEQ.
- (7) A copy of permit applications subject to Major NSR under OAR 340 division 224, including all supplemental and supporting information, must also be submitted directly to the EPA.
- (8) The name of the applicant must be the legal name of the facility or the owner's agent or the lessee responsible for the operation and maintenance of the facility. The legal name must be registered with the Secretary of State Corporations Division.
- (9) All applications must include the appropriate fees as specified in OAR 340-216-8020.
- (10) Applications that are obviously incomplete, unsigned, improperly signed, or lacking the required exhibits or fees will be rejected by DEQ and returned to the applicant for completion.
- (11) Within 15 days after receiving the application, DEQ will preliminarily review the application to determine the adequacy of the information submitted:
 - (a) If DEQ determines that additional information is needed, DEQ will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request;
 - (b) If, in the opinion of DEQ, additional measures are necessary to gather facts regarding the application, DEQ will notify the applicant that such measures will be instituted along with the timetable and procedures to be followed. The application will not be considered complete for processing until the necessary additional fact-finding measures are completed. When the information in the application is deemed adequate for processing, DEQ will so notify the applicant.
- (12) If at any time while processing the application, DEQ determines that additional information is needed, DEQ will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request.
- (13) If, upon review of an application, DEQ determines that a permit is not required, DEQ will so notify the applicant in writing. Such notification is a final action by DEQ on the application.

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

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 42, f. 4-5-72, ef. 4-15-72; DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 20-1979, f. & ef. 6-29-79; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0175; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1770; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0020 & 340-014-0030; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 9-2014, f. & cert. ef. 6-26-14; DEQ 7-2015, f. & cert. ef. 4-16-15

340-216-0069, Toxic Air Contaminant Permit Addendums

(1) Purpose and Intent. DEQ may implement requirements pertaining to toxic air contaminants under OAR 340 division 245 as follows:

(a) For new sources, by including conditions in the source's ACDP to ensure compliance with the Cleaner Air Oregon rules, OAR chapter 340, division 245; and

(b) For existing sources, by requiring the owner or operator of the sources to obtain a Toxic Air Contaminant Permit Addendum that amends the source's ACDP.

(2) A Toxic Air Contaminant Permit Addendum will be incorporated into a source's ACDP upon renewal or modification.

(3) OAR 340-216-0062 and 340-216-0068 do not apply to Toxic Air Contaminant Permit Addendums.

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

340-216-0090,

Sources Subject to ACDPs and Fees

(1) All air contaminant discharge sources listed in OAR 340-216-8010 must obtain a permit from DEQ and are subject to fees in OAR 340-216-8020.

(2) An owner or operator of a source that is required to demonstrate compliance with Cleaner Air Oregon rules under OAR 340-245-0005 through 340-245-8050 must pay the fees specified in OAR 340-216-8030.

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

Stat. Auth.: ORS 468.020, 468.065, 468A.040, 468A.310 & 468A.315

Stats. Implemented: ORS 468.065, 468A.040, 468A.310 & 468A.315

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033.12; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 11-1983, f. & ef. 5-31-83; DEQ 6-1986, f. & ef. 3-26-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 17-1990, f. & cert. ef. 5-25-90; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0165; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 22-1994, f. & cert. ef. 10-14-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 18-1997, f. 8-27-97, cert. ef. 10-1-97; DEQ 7-1998, f. & cert. ef. 5-5-98; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1750; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 9-2014, f. & cert. ef. 6-26-14; DEQ 7-2015, f. & cert. ef. 4-16-15

340-216-8020,

Table 2 — Air Contaminant Discharge Permits

Sources referred to in Table 1 of OAR 340-216-8010 are subject to air contaminant discharge permit fees in Table 2.

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

NOTE: See history of this table under OAR 340-216-0020.

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table\(s\).](#)]

Stat. Auth.: ORS 468.020, 468A.025, 468A.040, 468A.310

Stats. Implemented: ORS 468A

Hist.: DEQ 9-2014, f. & cert. ef. 6-26-14; DEQ 7-2015, f. & cert. ef. 4-16-15



Oregon Department of Environmental Quality

Table 2 – 340-216-8020

Air Contaminant Discharge Permits

Part 1. Initial Permitting Application Fees: (in addition to first annual fee)		
a. Short Term Activity ACDP		\$3,600.00
b. Basic ACDP		\$144.00
c. Assignment to General ACDP ¹		\$1,440.00
d. Simple ACDP		\$7,200.00
e. Construction ACDP		\$11,520.00
f. Standard ACDP		\$14,400.00
g. Standard ACDP (Major NSR or Type A State NSR)		\$50,400.00
1. DEQ may waive the assignment fee for an existing source requesting to be assigned to a General ACDP because the source is subject to a newly adopted area source NESHAP as long as the existing source requests assignment within 90 days of notification by DEQ.		
Part 2. Annual Fees: (Due date 12/1¹ for 1/1 to 12/31 of the following year)		
a. Short Term Activity ACDP		\$NA
b. Basic ACDP		\$432.00
c. General ACDP	(A) Fee Class One	\$864.00
	(B) Fee Class Two	\$1,555.00
	(C) Fee Class Three	\$2,246.00
	(D) Fee Class Four	\$432.00
	(E) Fee Class Five	\$144.00
	(F) Fee Class Six	\$288.00

d. Simple ACDP	(A) Low Fee	\$2,304.00
	(B) High Fee	\$4,608.00
e. Standard ACDP		\$9,216.00
f. Greenhouse Gas Reporting, as required by OAR 340, Division 215		12.5% of the applicable annual fee in Part 2
1. DEQ may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.		
Part 3. Cleaner Air Oregon Annual Fees: (Due date 12/1 for 1/1 to 12/31 of the following year)		
a. <u>Basic ACDP</u>		<u>\$151.00</u>
b. <u>General ACDP</u>	(A) <u>Fee Class One</u>	<u>\$302.00</u>
	(B) <u>Fee Class Two</u>	<u>\$544.00</u>
	(C) <u>Fee Class Three</u>	<u>\$786.00</u>
	(D) <u>Fee Class Four</u>	<u>\$151.00</u>
	(E) <u>Fee Class Five</u>	<u>\$ 50.00</u>
	(F) <u>Fee Class Six</u>	<u>\$100.00</u>
c. <u>Simple ACDP</u>	(A) <u>Low Fee</u>	<u>\$806.00</u>
	(B) <u>High Fee</u>	<u>\$1,612.00</u>
d. <u>Standard ACDP</u>		<u>\$3,225.00</u>
2. <u>DEQ may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.</u>		
Part 34. Specific Activity Fees:		
a. Non-Technical Permit Modification ¹		\$432.00
b. Basic Technical Permit Modification		\$432.00
c. Simple Technical Permit Modification		\$1,440.00
d. Moderate Technical Permit Modification		\$7,200.00

e. Complex Technical Permit Modification	\$14,440.00
f. Major NSR or Type A State NSR Permit Modification	\$50,400.00
g. Modeling Review (outside Major NSR or Type A State NSR)	\$7,200.00
h. Public Hearing at Source's Request	\$2,880.00
i. State MACT Determination	\$7,200.00
j. Compliance Order Monitoring ²	\$144.00/month
Part 45. Late Fees:	
a. 8-30 days late	5%
b. 31-60 days late	10%
c. 61 or more days late	20%
<p>1. For gasoline dispensing facilities, a portion of these fees will be used to cover the fees required for changes of ownership in OAR 340-150-0052(4).</p> <p>2. This is a one-time fee payable when a compliance order is established in a permit or a DEQ order containing a compliance schedule becomes a final order of DEQ and is based on the number of months DEQ will have to oversee the order.</p> <p>NOTE: See history of this table under OAR 340-216-0020.</p>	


340-216-8030, Table 3 — Cleaner Air Oregon Specific Activity Fees

Sources subject to division 245, Cleaner Air Oregon, are required to pay the specific activity fees in Table 3.

[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]

Stat. Auth.: ORS 468.020, 468.065, 468A.040, 468A.050 and 468A.315

Stats. Implemented: ORS 468.020, 468.065, 468A.040, 468A.050 and 468A.315

 <u>Oregon Department of Environmental Quality</u> <u>Table 3 – 340-216-8030</u> <u>Cleaner Air Oregon Specific Activity Fees</u>					
#	<u>ACTIVITY</u>	<u>Permit Type</u>			
		<u>Title V</u>	<u>Standard ACDP</u>	<u>Simple ACDP</u>	<u>General Basic ACDP</u>
<u>1</u>	<u>Existing Source Call-In Fee</u>	<u>\$10,000</u>	<u>\$10,000</u>	<u>\$1,000</u>	<u>\$500</u>
<u>2</u>	<u>New Source Consulting Fee</u>	<u>\$12,000</u>	<u>\$12,000</u>	<u>\$1,900</u>	<u>\$1,000</u>
<u>3</u>	<u>Document Modification Fee</u>	<u>\$2,500</u>	<u>\$2,500</u>	<u>\$500</u>	<u>\$250</u>
<u>Risk Below Risk Action Levels</u>					
<u>4</u>	<u>Level 1 Risk Assessment - de minimis (no permit addendum required)</u>	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$1,000</u>	<u>\$800</u>
<u>5</u>	<u>Level 1 Risk Assessment - permit addendum required</u>	<u>\$2,000</u>	<u>\$2,000</u>	<u>\$1,500</u>	<u>\$1,100</u>
<u>6</u>	<u>Level 2 Risk Assessment - de minimis (no permit addendum required)</u>	<u>\$3,100</u>	<u>\$3,100</u>	<u>\$2,300</u>	<u>\$2,000</u>
<u>7</u>	<u>Level 2 Risk Assessment - permit addendum required</u>	<u>\$3,600</u>	<u>\$3,600</u>	<u>\$2,800</u>	<u>\$2,300</u>
<u>8</u>	<u>Level 3 Risk Assessment - de minimis (no permit addendum required)</u>	<u>\$8,800</u>	<u>\$8,200</u>	<u>\$5,300</u>	<u>\$4,500</u>
<u>9</u>	<u>Level 3 Risk Assessment - permit addendum required</u>	<u>\$19,900</u>	<u>\$11,300</u>	<u>\$7,700</u>	<u>\$6,300</u>
<u>10</u>	<u>Level 4 Risk Assessment - de minimis (no permit addendum required)</u>	<u>\$21,400</u>	<u>\$18,500</u>	<u>\$11,700</u>	<u>NA</u>
<u>11</u>	<u>Level 4 Risk Assessment - permit addendum required</u>	<u>\$34,600</u>	<u>\$25,800</u>	<u>\$15,500</u>	<u>NA</u>
<u>Risk Above Risk Action Levels</u>					
<u>12</u>	<u>Risk Reduction Plan Fee</u>	<u>\$6,700</u>	<u>\$6,700</u>	<u>\$2,600</u>	<u>\$2,600</u>
<u>13</u>	<u>Air Monitoring Plan Fee (includes risk assessment)</u>	<u>\$25,900</u>	<u>\$25,900</u>	<u>NA</u>	<u>NA</u>



Oregon Department of Environmental Quality

Table 3 – 340-216-8030

State of Oregon
Department of
Environmental
Quality

Cleaner Air Oregon Specific Activity Fees

<u>14</u>	<u>Postponement of Risk Reduction Fee</u>	<u>\$4,400</u>	<u>\$4,400</u>	<u>\$4,400</u>	<u>\$2,000</u>
<u>15</u>	<u>TBACT/TLAER Review (per Toxic Emissions Unit and type of toxic air contaminant)</u>	<u>\$3,000</u>	<u>\$3,000</u>	<u>\$1,500</u>	<u>\$1,500</u>
	<u>Other Fees</u>				
<u>16</u>	<u>TEU Risk Assessment – no permit addendum mod</u>	<u>\$1,000</u>	<u>\$1,000</u>	<u>\$500</u>	<u>\$500</u>
<u>17</u>	<u>TEU Risk Assessment – permit addendum mod</u>	<u>\$4,000</u>	<u>\$4,000</u>	<u>\$2,000</u>	<u>\$1,000</u>
<u>18</u>	<u>Level 2 Modeling review only for TEU approval</u>	<u>\$1,900</u>	<u>\$1,300</u>	<u>\$800</u>	<u>\$700</u>
<u>19</u>	<u>Level 3 Modeling review only for TEU approval</u>	<u>\$3,800</u>	<u>\$3,800</u>	<u>\$3,500</u>	<u>\$3,500</u>
<u>20</u>	<u>Community Engagement Meeting Fee – high</u>	<u>\$8,000</u>	<u>\$8,000</u>	<u>\$8,000</u>	<u>\$8,000</u>
<u>21</u>	<u>Community Engagement Meeting Fee – medium</u>	<u>\$4,000</u>	<u>\$4,000</u>	<u>\$4,000</u>	<u>\$4,000</u>
<u>22</u>	<u>Community Engagement Meeting Fee - low</u>	<u>\$1,000</u>	<u>\$1,000</u>	<u>\$1,000</u>	<u>\$1,000</u>
<u>23</u>	<u>Source Test Review Fee (plan and data review) - complex</u>	<u>\$6,000</u>	<u>\$6,000</u>	<u>\$6,000</u>	<u>\$6,000</u>
<u>24</u>	<u>Source Test Review Fee (plan and data review) – moderate</u>	<u>\$4,200</u>	<u>\$4,200</u>	<u>\$4,200</u>	<u>\$4,200</u>
<u>25</u>	<u>Source Test Review Fee (plan and data review) - simple</u>	<u>\$1,400</u>	<u>\$1,400</u>	<u>\$1,400</u>	<u>\$1,400</u>

DIVISION 218

OREGON TITLE V OPERATING PERMITS

340-218-0010.

Policy and Purpose

These rules establish a program to implement Title V of the FCAA for the State of Oregon as part of the overall industrial source control program:

- (1) All sources subject to this division ~~shall~~must have an Oregon Title V Operating Permit that assures compliance by the source with all applicable requirements in effect as of the date of permit issuance.
 - (2) The requirements of the Oregon Title V Operating Permit program, including provisions regarding schedules for submission and approval or disapproval of permit applications, ~~shall~~must apply to the permitting of affected sources under the national acid rain program, except as provided herein.
 - (3) All sources subject to this division are exempt from the following:
 - (a) Registration as required by ORS 468A.050 and OAR 340-210-0100 through 340-210-0120; and
 - (b) Air Contaminant Discharge Permits and attachments, OAR 340 division 216, unless required by 340-216-0020(2) or (4), or 340-224-0010(1).
 - (A) Oregon Title V Operating Permits do not replace requirements in an Air Contaminant Discharge Permit issued to the source even if the ACDP has expired. For a source operating under a Title V Permit, requirements established in an earlier ACDP remain in effect notwithstanding expiration of the ACDP or the Title V permit, unless a provision expires by its terms or unless a provision is modified or terminated following the procedures used to establish the requirement initially.
 - (B) Source specific requirements, including, but not limited to TACT, RACT, BACT, and LAER requirements, established in an ACDP must be incorporated into the Oregon Title V Operating Permit and any revisions to those requirements must follow the procedures used to establish the requirements initially.
- (4) DEQ may implement requirements pertaining to toxic air contaminants under OAR 340 division 245 for new and existing sources required to obtain an Oregon Title V Operating Permit by incorporating compliance conditions into a new source's Oregon Title V Operating Permits or by amending an existing source's Oregon Title V Operating Permit through a Toxic Air Contaminant Permit Addendum. A Toxic Air Contaminant Permit Addendum must be

incorporated into a source's Oregon Title V Operating Permit upon renewal, reopening, or modification.

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

Stat. Auth.: ORS 468.020, 468A.025, 468A.040, 468A.155 & 468A.310

Stats. Implemented: ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2100; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 7-2015, f. & cert. ef. 4-16-15

340-218-0020,

Applicability

(1) Except as provided in section (4), this division applies to the following sources:

(a) Any major source;

(b) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the FCAA;

(c) Any source, including an area source, subject to a standard or other requirement under section 112 of the FCAA, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the FCAA;

(d) Any affected source under Title IV; and

(e) Any source in a source category designated by the EQC ~~pursuant to~~under this rule.

(2) The owner or operator of a source with an Oregon Title V Operating Permit whose potential to emit later falls below the emission level that causes it to be a major source, and which is not otherwise required to have an Oregon Title V Operating Permit, may submit a request for revocation of the Oregon Title V Operating Permit. Granting of the request for revocation does not relieve the source from compliance with all applicable requirements or ACDP requirements.

(3) Synthetic minor sources.

(a) A source which would otherwise be a major source subject to this division may choose to become a synthetic minor source by limiting its emissions below the emission level that causes it to be a major source through limits contained in an ACDP issued by DEQ under 340 division 216.

(b) The reporting and monitoring requirements of the emission limiting conditions contained in the ACDPs of synthetic minor sources issued by DEQ under OAR 340-216 must meet the requirements of OAR 340-212-0010 through 340-212-0150 and division 214.

(c) Synthetic minor sources who request to increase their potential to emit above the major source emission rate thresholds will become subject to this division and must submit a permit application under OAR 340-218-0040 and obtain an Oregon Title V Operating Permit before increasing emissions above the major source emission rate thresholds.

(d) Synthetic minor sources that exceed the limitations on potential to emit are in violation of OAR 340-218-0020(1)(a).

(4) Source category exemptions.

(a) All sources listed in 340-218-0020(1) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit ~~pursuant to~~ under section 129(e) of the FCAA are not required to obtain a Title V permit, except non-major sources subject to a standard under section 111 or section 112 of the FCAA promulgated after July 21, 1992 are required to obtain a Title V permit unless specifically exempted from the requirement to obtain a Title V permit in section 111 or 112 standards.

(b) The following source categories are exempted from the obligation to obtain an Oregon Title V Operating Permit:

(A) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR part 60, subpart AAA — Standards of Performance for New Residential Wood Heaters; and

(B) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR part 61, subpart M — National Emission Standard for Hazardous Air Pollutants for Asbestos, section 61.145, Standard for Demolition and Renovation.

(c) Any source listed in OAR 340-218-0020(1) exempt from the requirement to obtain a permit under this rule may opt to apply for an Oregon Title V Operating Permit.

(5) Sources subject to this division may also be subject to OAR 340-245-0005 through 340-800245-8050.

(56) Emissions units and Oregon Title V Operating Permit program sources.

DEQ will include in the permit all applicable requirements for all relevant emissions units in the Oregon Title V Operating Permit source, including any equipment used to support the major industrial group at the site.

(67) Fugitive emissions. Fugitive emissions from an Oregon Title V Operating Permit program source must be included in the permit application and the permit in the same manner as stack

emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(78) Insignificant activity emissions. All emissions from insignificant activities, including categorically insignificant activities and aggregate insignificant emissions, must be included in the determination of the applicability of any requirement.

(89) Oregon Title V Operating Permit program sources that are required to obtain an ACDP, OAR 340 division 216, or a Notice of Approval, OAR 340-210-0205 through 340-210-0250, because of a Title I modification, must operate in compliance with the Oregon Title V Operating Permit until the Oregon Title V Operating Permit is revised to incorporate the ACDP or the Notice of Approval for the Title I modification.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468.020, 468A.025, 468A.040 & 468A.310

Stats. Implemented: ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 24-1994, f. & ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 24-1995, f. & cert. ef. 10-11-95; DEQ 1-1997, f. & cert. ef. 1-21-97; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 7-2015, f. & cert. ef. 4-16-15

340-218-0030,

Definitions

The definitions in OAR 340-200-0020, 340-204-0010, 340-245-0020, and this rule apply to this division. If the same term is defined in this rule and 340-200-0020, ~~or~~ 340-204-0010 or 340-245-0020, the definition in this rule applies to this division.

Stat. Auth.: ORS 468.020 & 468A

Stats. Implemented: ORS 468A

Hist.: DEQ 14-1999, f. & cert. ef. 10-14-99; DEQ 7-2015, f. & cert. ef. 4-16-15

340-218-0110,

Permit Shield

(1) Except as provided in this division, DEQ must expressly include in an Oregon Title V Operating Permit a provision stating that compliance with the conditions of the permit will be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(a) Such applicable requirements are included and are specifically identified in the permit; or

(b) DEQ, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(2) An Oregon Title V Operating Permit that does not expressly state that a permit shield exists will be presumed not to provide such a shield.

(3) Changes made to a permit using OAR 340-218-0150(1)(h) and 340-218-0180 will be shielded.

(4) Nothing in this rule or in any Oregon Title V Operating Permit may alter or affect the following:

(a) The provisions of ORS 468.115 (enforcement in cases of emergency) and ORS 468.035;

(b) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(c) The applicable requirements of the national acid rain program, consistent with section 408(a) of the FCAA; or

(d) The ability of DEQ to obtain information from a source ~~pursuant to~~ under ORS 468.095 (investigatory authority, access to records).

(5) The permit shield does not apply to conditions and requirements included in a Toxic Air Contaminant Permit Addendum or included in an Oregon Title V Operating Permit under OAR 340-245-0005 through 340-245-8050.

Stat. Auth.: ORS 468.020, 468A.025, 468A.040 & 468A.310

Stats. Implemented: ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2190; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2015, f. & cert. ef. 4-16-15

DIVISION 220

OREGON TITLE V OPERATING PERMIT FEES

340-220-0010₂

Purpose, Scope And Applicability

(1) The purpose of this division is to provide owners and operators of Oregon Title V Operating Permit program sources and DEQ with the criteria and procedures to determine emissions and fees based on air emissions and specific activities.

(2) This division applies to Oregon Title V Operating Permit program sources as defined in OAR 340-200-0020.

(3) The owner or operator may elect to pay emission fees for each regulated pollutant on either actual emissions or permitted emissions.

(4) Sources subject to the Oregon Title V Operating Permit program defined in OAR 340-200-0020, are subject to both an annual base fee established under 340-220-0030 and an emission fee calculated ~~pursuant to~~ under 340-220-0040.

(5) Sources subject to the Oregon Title V Operating Permit program may also be subject to ~~user~~ specific activity fees (OAR 340-220-0050 and 340-216-0090).

(6) DEQ will credit owners and operators of new Oregon Title V Operating Permit program sources for the unused portion of paid Annual Fees. The credit will begin from the date DEQ receives the Title V permit application.

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

Stat. Auth.: ORS 468.020, 468.065, 468A.310 & 468A.315

Stats. Implemented: ORS 468.065 & 468A.315

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2560; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 7-2015, f. & cert. ef. 4-16-15

340-220-0020,

Definitions

The definitions in OAR 340-200-0020, 340-204-0010, 340-245-0020, and this rule apply to this division. If the same term is defined in this rule and 340-200-0020, ~~or~~ 340-204-0010 or 340-245-0020, the definition in this rule applies to this division. Particulates. For purposes of this division, particulates mean PM10; or if a source's permit specifies particulate matter (PM) and not PM10, then PM; or if a source's permit specifies PM2.5 and neither PM10 nor PM, then PM2.5.

Stat. Auth.: ORS 468.020, 468.065, 468A.310 & 468A.315

Stats. Implemented: ORS 468.065 & 468A.315

Hist.: DEQ 14-1999, f. & cert. ef. 10-14-99; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 7-2015, f. & cert. ef. 4-16-15

340-220-0050,

Specific Activity Fees

(1) DEQ will assess specific activity fees for an Oregon Title V Operating Permit program source for the period of June 15, 2016 to January 19, 2017 as follows:

(a) Existing source permit revisions:

(A) Administrative* — \$484;

(B) Simple — \$1,938;

(C) Moderate — \$14,536;

(D) Complex — \$29,072.

(b) Ambient air monitoring review — \$3,876.

(2) DEQ will assess specific activity fees for an Oregon Title V Operating Permit program source as of January 20, 2017 as follows:

(a) Existing source permit revisions:

(A) Administrative* — \$488;

(B) Simple — \$1,953;

(C) Moderate — \$14,653;

(D) Complex — \$29,306; and

(b) Ambient air monitoring review — \$3,907.

NOTE: *Includes revisions specified in OAR 340-218-0150(1)(a) through (g). Other revisions specified in OAR 340-218-0150 are subject to simple, moderate or complex revision fees.

(3) DEQ will assess the following specific activity fee for an Oregon Title V Operating Permit program source for annual greenhouse gas reporting, as required by OAR 340-215-0060(1) — 12 percent of the following, not to exceed \$4,500*:

(a) The applicable annual base fee under OAR 340-220-0030 (for the period of November 15 of the current year to November 14 of the following year); and

(b) The applicable annual emission fee under OAR 340-220-0040 (~~for emissions during the previous calendar year~~).

(4) DEQ will assess the following specific activity fee for an Oregon Title V Operating Permit program source for Cleaner Air Oregon program implementation, as required by OAR 340-245-0400:

(a) The annual base fee of \$2,859; and

(b) The annual emission fee of \$21.61 per ton of each regulated pollutant for emissions during the previous calendar year, up to and including 7,000 tons of such emissions per year. The emission fee will be applied to emissions based on the elections made according to OAR 340-220-0090.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2600; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. cert. ef. 6-30-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 4-2009(Temp), f. & cert. ef. 8-27-09 thru 2-20-10; DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; DEQ 12-2010, f. & cert. ef. 10-27-10; DEQ 16-2010, f. & cert. ef. 12-20-10; DEQ 11-2011, f. & cert. ef. 7-21-11; DEQ 12-2011, f. & cert. ef. 7-21-11; DEQ 5-2012, f. & cert. ef. 7-2-12; DEQ 9-2012, f. & cert. ef. 12-11-12; DEQ 10-2014, f. & cert. ef. 9-4-14; DEQ 2-2015, f. & cert. ef. 1-7-15; DEQ 7-2016, f. & cert. ef. 6-9-16; DEQ 1-2017, f. & cert. ef. 1-19-17

DIVISION 244

OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM

340-244-8990, CAGM Rules Savings Provision

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

(2) In the event that Cleaner Air Oregon rules, OAR 340-245-0005 through 340-245-8050 are subject to judicial challenge and a court order or injunction is issued that stays any rule or rules in OAR 340-245-0005 through 340-245-8050, then the owner or operator must comply with the Colored Art Glass Manufacturing Facility Rules, OAR 340-244-9000 through 340-244-9090 for so long as the court order or injunction that stays any rule or rules in OAR 340-245-0005 through 340-245-8050 remains in effect.

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

340-244-9000,

Colored Art Glass Manufacturing Facility Rules; Applicability and Jurisdiction

[NOTE: Application of these rules is subject to OAR 340-244-8990.]

Notwithstanding OAR 340 division 246, OAR 340-244-9000 through 9090 apply to all facilities in the state of Oregon that:

(1) Manufacture glass from raw materials, or a combination of raw materials and cullet, for:

(a) Use in art, architecture, interior design and other similar decorative applications, or

(b) Use by glass manufacturers for use in art, architecture, interior design and other similar decorative applications; and

(2) Manufacture 5 tons per year or more of glass using raw materials that contain glassmaking HAPs.

(3) Subject to the requirements in this division and OAR 340-200-0010(3), LRAPA is designated by the EQC to implement OAR 340-244-9000 through 9090 within its area of jurisdiction.

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

DIVISION 246

OREGON STATE AIR TOXICS PROGRAM

340-246-0010,

Policy and Purpose

The purpose of Oregon's state air toxics program is to address threats to public health and the environment from toxic air pollutants that remain after implementing the state delegated technology-based strategies of the federal air toxics program in OAR 340-244-0010 through 340-

244-0252, Cleaner Air Oregon in OAR 340-245-0005 through 340-245-8050 and OAR 340-244-9000 through 340-244-9090. Oregon's program meets the goals of the federal Urban Air Toxics Strategy by using a community-based effort that focuses on geographic areas of concern. It also addresses cases of elevated health risks from ~~unregulated~~ air toxics emissions at stationary sources and source categories of air toxics emissions.

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015

Stats. Implemented: ORS 468A.015, 468A.025

Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03

340-246-0090.

Ambient Benchmarks for Air Toxics

(1) Purpose. Ambient benchmarks are concentrations of air toxics that serve as goals in the Oregon Air Toxics Program. They are based on human health risk and hazard levels considering sensitive populations. Ambient benchmarks are not regulatory standards, but reference values by which air toxics problems can be identified, addressed and evaluated. DEQ will use ambient benchmarks as indicated in these rules, to implement the Geographic, Source Category, and Safety Net Programs. Ambient benchmarks set by the procedures described in this rule apply throughout Oregon, including that area within the jurisdiction of the Lane Regional Air Protection Agency. In OAR 340-245-0300, ambient benchmarks may also be considered in the risk-based concentration hierarchy used to determine risk-based concentrations for purposes of Cleaner Air Oregon regulations in OAR 340-245-0005 through 240-245-8050. Ambient benchmarks are subject to public notice and comment before adoption by the Environmental Quality Commission as administrative rules.

(2) Establishing Ambient Benchmarks

(a) DEQ will consult with the ATSAC to prioritize air toxics for ambient benchmark development. Highest priority air toxics are those that pose the greatest risk to public health.

(b) To prioritize air toxics, DEQ will apply the criteria described in OAR 340-246-0090(2)(c) to modeling, monitoring, and emissions inventory data.

(c) Ambient benchmark prioritization criteria will include at least the following:

(A) Toxicity or potency of a pollutant;

(B) Exposure and number of people at risk;

(C) Impact on sensitive human populations;

(D) The number and degree of predicted ambient benchmark exceedances; and

(E) Potential to cause harm through persistence and bio-accumulation.

(d) DEQ will develop ambient benchmarks for proposal to the ATSAC based upon a protocol that uses reasonable estimates of plausible upper-bound exposures that neither grossly underestimate nor grossly overestimate risks.

(e) Within three months of the first meeting of the ATSAC, DEQ will propose ambient benchmark concentrations for the highest priority air toxics for review by the ATSAC. DEQ will propose additional and revised air toxics ambient benchmarks for review by the ATSAC based on the prioritization criteria in OAR 340-246-0090(2)(c). Once the ATSAC has completed review of each set of proposed ambient benchmarks, DEQ will, within 60 days, begin the process to propose ambient benchmarks as administrative rules for adoption by the Environmental Quality Commission.

(f) If DEQ is unable to propose ambient benchmarks to the ATSAC by the deadlines specified in OAR 340-246-0090(2)(e), the ATSAC will review the most current EPA ambient benchmarks. If EPA ambient benchmarks are not available, the ATSAC will review the best available information from other states and local air authorities.

(g) The ATSAC will consider proposed ambient benchmarks and evaluate their adequacy for meeting risk and hazard levels, considering human health, including sensitive human populations, scientific uncertainties, persistence, bio-accumulation, and, to the extent possible, multiple exposure pathways. The ATSAC will conduct this review consistent with the criteria in OAR 340-246-0090(2)(c) and (d). The ATSAC will report these findings to DEQ. If the ATSAC unanimously disagrees with DEQ's recommendation, DEQ will re-consider and re-submit its recommendation at a later date.

(h) The ATSAC will complete review of and report findings on each set of ambient benchmarks as quickly as possible, but no later than 12 months after DEQ has proposed them. If the ATSAC is unable to complete review of ambient benchmarks within 12 months after DEQ's proposal, DEQ will initiate rulemaking to propose ambient benchmarks.

(i) DEQ will review all ambient benchmarks at least every five years and, if necessary, propose revised or additional ambient benchmarks to the ATSAC. At its discretion, DEQ may review and propose a benchmark for review by the ATSAC at any time when new information is available.

(3) Ambient Benchmarks. Benchmark concentrations are in units of micrograms of air toxic per cubic meter of ambient air, on an average annual basis. The Chemical Abstract Service Registry Number (CASRN) is shown in parentheses.

(a) The ambient benchmark for acetaldehyde (75-07-0) is 0.45 micrograms per cubic meter.

(b) The ambient benchmark for acrolein (107-02-8) is 0.35 micrograms per cubic meter.

(c) The ambient benchmark for acrylonitrile (107-13-1) is 0.01 micrograms per cubic meter.

(d) The ambient benchmark for ammonia (7664-41-7) is 500 micrograms per cubic meter.

- (e) The ambient benchmark for arsenic (7440-38-2) is 0.0002 micrograms per cubic meter.
- (f) The ambient benchmark for benzene (71-43-2) is 0.13 micrograms per cubic meter.
- (g) The ambient benchmark for beryllium (7440-41-7) is 0.0004 micrograms per cubic meter.
- (h) The ambient benchmark for 1,3-butadiene (106-99-0) is 0.03 micrograms per cubic meter.
- (i) The ambient benchmark for cadmium and cadmium compounds (7440-43-9) is 0.0006 micrograms per cubic meter.
- (j) The ambient benchmark for carbon disulfide (75-15-0) is 800 micrograms per cubic meter.
- (k) The ambient benchmark for carbon tetrachloride (56-23-5) is 0.2 micrograms per cubic meter.
- (l) The ambient benchmark for chlorine (7782-50-5) is 0.1 micrograms per cubic meter.
- (m) The ambient benchmark for chloroform (67-66-3) is 300 micrograms per cubic meter.
- (n) The ambient benchmark for chromium, hexavalent (18540-29-9) is 0.00008 micrograms per cubic meter.
- (o) The ambient benchmark for cobalt and cobalt compounds (7440-48-4) is 0.1 micrograms per cubic meter.
- (p) The ambient benchmark for 1,4-dichlorobenzene (106-46-7) is 0.09 micrograms per cubic meter.
- (q) The ambient benchmark for 1,3-dichloropropene (542-75-6) is 0.25 micrograms per cubic meter.
- (r) The ambient benchmark for diesel particulate matter (none) is 0.1 micrograms per cubic meter. The benchmark for diesel particulate matter applies only to such material from diesel-fueled internal combustion sources.
- (s) The ambient benchmark for dioxins and furans (1746-01-6) is 0.00000003 micrograms per cubic meter. The benchmark for dioxin is for total chlorinated dioxins and furans expressed as 2,3,7,8-TCDD toxicity equivalents.
- (t) The ambient benchmark for ethyl benzene (100-41-4) is 0.4 micrograms per cubic meter.
- (u) The ambient benchmark for ethylene dibromide (106-93-4) is 0.002 micrograms per cubic meter.
- (v) The ambient benchmark for ethylene dichloride (107-06-2) is 0.04 micrograms per cubic meter.

- (w) The ambient benchmark for ethylene oxide (75-21-8) is 0.0003 micrograms per cubic meter.
- (x) The ambient benchmark for formaldehyde (50-00-0) is 0.2 micrograms per cubic meter.
- (y) The ambient benchmark for n-hexane (110-54-3) is 700 micrograms per cubic meter.
- (z) The ambient benchmark for hydrogen chloride (7647-01-0) is 20 micrograms per cubic meter.
- (aa) The ambient benchmark for hydrogen cyanide (74-90-8) is 0.8 micrograms per cubic meter.
- (bb) The ambient benchmark for fluoride anion (7664-39-3) is 13 micrograms per cubic meter.
- (cc) The ambient benchmark for lead and lead compounds (7439-92-1) is 0.15 micrograms per cubic meter.
- (dd) The ambient benchmark for manganese and manganese compounds (7439-96-5) is 0.09 micrograms per cubic meter.
- (ee) The ambient benchmark for elemental mercury (7439-97-6) is 0.3 micrograms per cubic meter.
- (ff) The ambient benchmark for methyl bromide (74-83-9) is 5 micrograms per cubic meter.
- (gg) The ambient benchmark for methyl chloride (74-87-3) is 90 micrograms per cubic meter.
- (hh) The ambient benchmark for methyl chloroform (71-55-6) is 5,000 micrograms per cubic meter.
- (ii) The ambient benchmark for methylene chloride (75-09-2) is 100 micrograms per cubic meter.
- (jj) The ambient benchmark for naphthalene (91-20-3) is 0.03 micrograms per cubic meter.
- (kk) The benchmark for soluble nickel compounds (various) is 0.01 micrograms per cubic meter, where soluble nickel compounds include nickel acetate (373-20-4), nickel chloride (7718-54-9), nickel carbonate (3333-39-3), nickel carbonyl (13463-39-3), nickel hydroxide (12054-48-7), nickelocene (1271-28-9), nickel sulfate (7786-81-4), nickel sulfate hexahydrate (10101-97-0), nickel nitrate hexahydrate (13478-00-7), and nickel carbonate hydroxide (12607-70-4).
- (ll) The ambient benchmark for insoluble nickel compounds (various) is 0.004 micrograms per cubic meter, where insoluble nickel compounds include nickel subsulfide (12035-72-2), nickel oxide (1313-99-1), nickel sulfide (11113-75-0), and nickel metal (7440-02-0).
- (mm) The ambient benchmark for phosphine (7803-51-2) is 0.8 micrograms per cubic meter.
- (nn) The ambient benchmark for phosphoric acid (7664-38-2) is 10 micrograms per cubic meter.

(oo) The ambient benchmark for total (as the sum of congeners) polychlorinated biphenyls (1336-36-3) is 0.01 micrograms per cubic meter.

(pp) The ambient benchmark for total polycyclic aromatic hydrocarbons (none) is 0.002 micrograms per cubic meter, where total polycyclic aromatic hydrocarbons are the sum of the toxicity equivalency factor (with respect to benzo(a)pyrene (50-32-8)) adjusted concentrations for all of the following individual 26 polycyclic aromatic hydrocarbons: 5-methylchrysene (3697-24-3); 6-nitrochrysene (7496-02-8); acenaphthene (83-32-9); acenaphthylene (208-96-8); anthanthrene (191-26-4); anthracene (120-12-7); benz(a)anthracene (56-55-3); benzo(a)pyrene (50-32-8); benzo(b)fluoranthene (205-99-6); benzo(c)fluoranthene (243-17-4); benzo(e)pyrene (192-97-2); benzo(g,h,i)perylene (191-24-2); benzo(j)fluoranthene (205-82-3); benzo(k)fluoranthene (207-08-9); chrysene (218-01-9); cyclopenta(c,d)pyrene (27208-37-3); dibenz(a,h)anthracene (226-36-8); dibenzo(a,e)pyrene (192-65-4); dibenzo(a,h)pyrene (189-64-0); dibenzo(a,i)pyrene (189-55-9); dibenzo(a,l)pyrene (191-30-0); fluoranthene (206-44-0); fluorene (86-73-7); indeno(1,2,3-c,d)pyrene (193-39-5); phenanthrene (85-01-8); and pyrene (129-00-0).

(qq) The ambient benchmark for tetrachloroethylene (127-18-4) is 4 micrograms per cubic meter.

(rr) The ambient benchmark for toluene (108-88-3) is 5,000 micrograms per cubic meter.

(ss) The ambient benchmark for 2,4- & 2,6 toluene diisocyanate, mixture (26471-62-5) is 0.02 micrograms per cubic meter.

(tt) The ambient benchmark for trichloroethylene (79-01-6) is 0.2 micrograms per cubic meter.

(uu) The ambient benchmark for vinyl chloride (75-01-4) is 0.1 micrograms per cubic meter.

(vv) The ambient benchmark for white phosphorus (7723-14-0) is 9 micrograms per cubic meter.

(ww) The ambient benchmark for xylenes, mixed (1330-20-7) is 200 micrograms per cubic meter.

(xx) The ambient benchmark for hydrogen sulfide (7783-06-4) is 2.0 micrograms per cubic meter.

(yy) The ambient benchmark for methanol (67-56-1) is 4,000 micrograms per cubic meter.

(zz) The ambient benchmark for phosgene (75-44-5) is 0.3 micrograms per cubic meter.

(aaa) The ambient benchmark for n-propyl bromide (106-94-5) is 0.5 micrograms per cubic meter.

(bbb) The ambient benchmark concentration for styrene (100-42-5) is 1,000 micrograms per cubic meter.

Stat. Auth.: ORS 468.035, 468A.010(1) & 468A.015

Stats. Implemented: ORS 468A.015, 468A.025

Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03; DEQ 12-2006, f. & cert. ef. 8-15-06

340-246-0190.

Air Toxics Safety Net Program (0190 through 0230)

(1) The purpose of the Air Toxics Safety Net Program is to address human exposures at public receptors to air toxics emissions from stationary sources that are not addressed by other regulatory programs or the Geographic Program. It is the Commission's expectation that the Safety Net Program in OAR 340-246-0190 through 340-246-0230 will apply only rarely.

(2) Subject to the requirements contained in OAR 340-246-0190 through 340-246-0230, the Lane Regional Air Pollution Authority is designated by the Commission as the agency responsible for implementing the Air Toxics Safety Net Program within its area of jurisdiction. The requirements and procedures contained in this rule must be used by the Regional Authority to implement the Air Toxics Safety Net Program unless the Regional Authority adopts superseding rules, which are at least as restrictive as the rules adopted by the Commission.

(3) Selection of Sources. DEQ will select a source for the Air Toxics Safety Net Program if all of the following criteria are met:

(a) DEQ has ambient monitoring information, gathered using appropriate EPA or other published international, national, or state standard methods that concentrations of air toxics have caused an exceedance of at least one ambient benchmark at a site representing expected human exposure to air toxics from the source at a public receptor in a location outside of the source's ownership or control.

(b) DEQ has information that the source's air toxics emissions alone have caused an exceedance of at least one ambient benchmark at a site representing expected human exposure to air toxics from the source at a public receptor, in a location outside of the source's ownership or control. This could be based on emissions inventory, modeling or other information.

(c) The source is not subject to or scheduled for a federal residual risk assessment under the federal Clean Air Act section 112(f)(2) through (6).

(d) The source is not subject to the permitting requirements under OAR 340 division 245.

~~(e)~~ The source is not subject to an emissions limit or control requirement imposed as the result of modeling or a risk assessment performed or required by DEQ prior to November 1, 2003 for the air toxics that exceed the ambient benchmarks.

~~(f)~~ The source is located outside of a selected geographic area, as designated in OAR 340-246-0130 through 0170.

(4) Air Toxics Science Advisory Committee Review. Before requiring a source to conduct a source-specific risk assessment, DEQ will present its analysis to the ATSAC. Within 120 days, the ATSAC will review the analysis and make a finding. If the ATSAC concurs with DEQ or takes no action, DEQ may proceed under this rule. If the ATSAC objects, DEQ will not proceed until it receives concurrence from the Commission.

(5) Source-Specific Exposure Modeling and Risk Assessment. Upon written notification by DEQ, a source must conduct a risk assessment including exposure modeling for the air toxics measured at levels above ambient benchmarks. The source must use a risk assessment methodology provided by DEQ. This risk assessment will provide the basis for establishing air toxics emissions reductions or demonstrating that at public receptors in areas outside of a source's ownership or control, people are not being exposed to air toxics at levels that exceed the ambient benchmarks.

(6) Risk Assessment Methodology. DEQ will provide guidance on the methods to be used. The risk assessment methodology will be developed in consultation with the ATSAC and will result in a protocol that:

(a) Uses reasonable estimates of plausible upper-bound exposures that neither grossly underestimate nor grossly overestimate risks;

(b) Considers the range of probabilities of risks actually occurring, the range of size of the populations likely to be exposed to the risk, and current and reasonably likely future land uses;

(c) Defines the use of high-end and central-tendency exposure cases and assumptions;

(d) Develops values associated with chronic exposure for carcinogens; and

(e) Addresses both carcinogenic and non-carcinogenic air toxics and allows for detailed exposure assessments to the extent possible.

(7) Review and Acceptance by DEQ. DEQ will evaluate the risk assessment for adequacy and completeness before accepting the results. If the results demonstrate that the source is not causing human exposures to air toxics at levels that exceed the ambient benchmarks at public receptors, in areas outside the source's ownership or control, and DEQ has received concurrence from the ATSAC, DEQ will notify the source that air toxics emissions reductions will not be required under this rule.

Stat. Auth.: ORS 468.035, 468A.010(1), 468A.015

Stats. Implemented: ORS 468A.015, 468A.025

Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03