State of Oregon Department of Environmental Quality

Oregon Environmental Quality Commission Meeting

Nov. 17- 18, 2022

Item F: Air Quality Permitting Updates 2022 Rulemaking (Action)

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DEQ Recommendation to EQC

DEQ recommends that the Environmental Quality Commission:

- Adopt the proposed rule amendments seen in Attachment A as part of Chapter 340 of the Administrative Rules with an effective date of March 1, 2023;
- Approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040;
- Direct DEQ to submit this SIP revision to the U.S. Environmental Protection Agency for approval.

Language of proposed EQC motion:
"I move that the Oregon Environmental Quality Commission

- *Adopt the proposed rule amendments seen in Attachment A of this staff report as part of Chapter 340 of the Oregon Administrative Rules with an effective date of March 1, 2023;*
- *Approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and*
- *Direct DEQ to submit this SIP revision to the U.S. Environmental Protection Agency for approval.*

Introduction

DEQ presented an informational item to the commission in September 2022 on the Air Quality Permitting Updates 2022 rulemaking under development. DEQ received many comments both in opposition and support of the agency's proposal to insert a Minor New Source Review program inside the existing permitting framework. After considering these comments, DEQ modified the draft rule proposal for commission consideration, to allow for additional program and public engagement. .

Additionally, EPA has begun reviewing the rules for the Minor New Source Review programs across the country. EPA is considering options to strengthen the effectiveness of these programs, and may recommend or require additional regulatory changes for states. EPA held their first meeting on October 27 to inform air agencies of their intent. DEQ learned there are more issues to address, especially regarding public notice requirements due to Oregon statutory requirements. Additional time for reconsideration of the Minor Source Emissions Reductions Technology provisions in the proposed rules will allow DEQ to work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements. DEQ plans to reconvene the Rules Advisory Committee for that discussion but is removing the Minor New Source Review Emissions Reductions Technology requirements from this proposed rulemaking at this time for reconsideration.

The future rulemaking also provides DEQ time to undertake a more holistic approach to minor source review unconstrained by the existing Notice of Intent to Construct structure, consider process redesign, improve efficiency, address staffing and training needs. DEQ is

committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions, particularly in communities that are underserved and overburdened with a disproportionate impact from air pollution.

The proposed rules presented in this report represent a scaling back from the draft rules presented during the public notice, which lowers the cost and impact to regulated parties.

DEQ proposes to update, clarify, improve and streamline Oregon's air quality permit programs. Three categories of proposed changes include:

- Policy changes that strengthen the permitting program, streamline the rules and improve the permitting process;
- Technical changes that clarify the program and rules; and
- Corrections to typographical errors and non-technical changes.

The changes would allow DEQ to protect air quality with more efficient and effective permitting regulations and allow DEQ to focus resources. As required under HB 2993, DEQ expects this proposed rulemaking will have a slight favorable impact on racial equity, the fair, just and unbiased treatment of people of different races, and environmental justice in Oregon.

The proposed rule changes include the following policy changes:

- Strengthen the efficacy of the air quality permitting program
    - Prohibit issuance of all approvals for sources that will cause an exceedance of a National Ambient Air Quality Standard;
    - Eliminate Generic Plant Site Emission Limits, which currently often allow greater emissions than a facility is physically capable of emitting and is incompatible with requirements to protect short term air quality standards;
    - Clarify and update the Notice of Intent to Construct rules;
    - Require that sources must construct or modify in accordance with approved plans submitted with their applications;
    - Change permit type if sources are on the wrong permit;
    - Eliminate provisions that currently allow sources to operate without using pollution control devices for 48-hours under the excess emission rules;
    - Clarify DEQ's ability to require and use modeling in addition to monitoring (by DEQ or sources) for NAAQS exceedance verification; and
    - Clarify that permittees must comply with all conditions in their permits.

- Streamline rules and make process improvements
    - Extend permit terms for Simple permits to better allocate DEQ resources to work on more significant permitting issues;
    - Provide no expiration date for New Source Review permits that must be incorporated into a Title V Operating Permit;
    - Expand the use of short-term activity permits for temporary operations beyond unexpected and emergency activities, providing more flexibility for businesses;
    - Provide a petition process for additional industrial categories to have general permits, rather than source-specific permits;

- Require more complete applications at permit renewal to ensure DEQ staff have sufficient information to process the renewal applications;
- Require additional information to be submitted by a date certain with an opportunity to request more time if needed rather than allowing 90 days for all submittals;
- Clarify reinstatement procedures for owners or operators whose permits have been terminated because of a late permit renewal application or late payment of fees;
- Add 1-bromopropane (1-BP) to the state list of Hazardous Air Pollutants to make it consistent with its listing under Section 112 of the Clean Air Act, as recently added by the EPA; and
- Provide flexibility for assessment of Exempt Toxics Emissions Units under the Cleaner Air Oregon program.

Many of the proposed rule changes improve clarity, especially where rules may conflict, and correct inaccurate cross-references and other errors.

Request for Other Options
During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rule and rule amendments' substantive goals while reducing the rules' negative economic impact on business. In particular, DEQ requested comment on the following:

- Proposed minor source Significant Emission Rates for requiring Minor Source Emission Reduction Technology review and an air quality modeling analysis for some Notice of Construction projects in OAR 340-200-0020(93). DEQ included two options in the proposed rules;
- List of presumptive Minor Source Emission Reduction Technology in proposed new rule OAR 340-224-0300;
- Type 1 Notice of Construction equipment list in OAR 340-210-0225(1); and
- How much time should be allowed under the excess emission rules in OAR 340-214-0330 before the owner or operator is required to shut down.

Regulated parties
The proposed rule and rule amendments affect:

- All businesses, agencies, local governments and other entities holding air quality permits and that may be required to obtain air quality permits; and
- Businesses and other entities (both permitted and unpermitted) required to submit construction approval notices.

Statement of Need

STRENGTHEN RULES

The following proposed changes strengthen DEQ's air quality permitting program:

- Prohibit issuance of all approvals for sources that will cause an exceedance of a National Ambient Air Quality Standard;
- Eliminate Generic Plant Site Emission Limits, which currently often allow greater emissions than a facility is physically capable of emitting;
- Clarify and update the Notice of Intent to Construct rules;
- Require that sources must construct or modify in accordance with approved plans submitted with their applications;
- Change permit type if sources are on the wrong permit;
- Eliminate provisions that currently allow sources to operate without using pollution control devices for 48-hours under the excess emission rules;
- Clarify DEQ's ability to require and use modeling in addition to monitoring (by DEQ or sources) for NAAQS exceedance verification; and
- Clarify that permittees must comply with all conditions in their permits.

Prohibit issuance of all approvals for sources that will cause an exceedance of a National Ambient Air Quality Standard.

DEQ proposes to prohibit issuance of construction approvals to all sources and permits to any new or modified source that will cause an exceedance of a National Ambient Air Quality Standard outside of its property boundary.

DEQ has the authority to require an air quality analysis in existing rules. The existing rules do not require that sources that request construction approval under the Notice of Intent to Construct rules verify that the NAAQS will be protected. In addition, the existing rules do not clearly state a requirement for sources to submit an air quality analysis with a permit application.

What need would the proposed rule changes address?	How would the proposed rule changes address the need?
Current rules do not require sources to verify that the National Ambient Air Quality Standards are protected when a source applies for a Type 2 and Type 3 Notice of Intent to Construct for new or replaced equipment.	Type 2 and Type 3 NCs for new or replaced equipment require an air quality modeling analysis to ensure that the proposed construction does not exceed National Ambient Air Quality Standards. Sources would have the option of including permit conditions to ensure its emission will not cause or contribute to an exceedance or violation of an ambient air quality standard or to conduct ambient monitoring and meteorological monitoring to confirm a violation of an ambient air quality standard.

DEQ must issue permits that are protective of the NAAQS.	The proposed rule changes require that an air quality analysis be included in the permit application for a new source. The air quality analysis is required with renewal or modification applications when requested by DEQ. DEQ may consider criteria, including but not limited to annual PSELs for NO_x, SO_2 and $PM_{2.5}$, along with environmental justice criteria (population density, minority population, low-income population, < 5 years of age population, over 64 years population, linguistic isolation population, less than high school degree population weighted equally) when determining the requirement for an existing source to submit an air quality analysis.

Eliminate Generic Plant Site Emission Limits.

Plant Site Emission Limits are included in almost all Air Contaminant Discharge Permits and Oregon Title V Operating Permits as a means of regulating increases and decreases in air emissions. PSELs are annual emission limits that can be source-specific or can be set at generic levels. This concept of Generic PSELs was developed as a streamlining measure in the Streamlined Permit Process Improvement Team rulemaking in 2001 to replace source-specific PSELs for some facilities. Sources assigned Generic PSELs often have actual emissions that are much lower than the Generic PSEL.

EPA's and DEQ's air permitting programs use Significant Emission Rates as a threshold to determine when New Source Review requirements apply to new and existing facilities. Air quality modeling analysis is required for Significant Emission Rate increases to ensure the National Ambient Air Quality Standards are protected. In addition, a control technology review is required for major sources requesting Significant Emission Rate increases. Because there were no federal requirements in place for increases of emissions less than the Significant Emission Rate at the time of the SPPIT rulemaking in 2001, the Generic PSELs were established to allow owners or operators to increase emissions up to the Generic PSEL without requiring a permit modification if there were no physical modifications. The changes were intended to result in:

- Less time to calculate PSELs
- Less time to write permits
- Fewer permit modifications
- Less public notice for PSEL changes
- Less time spent by applicants and DEQ on permit review issues

In order to address more stringent ambient air quality standards adopted after 2001, DEQ is proposing to eliminate Generic PSELs. In the proposed rule changes, rather than assigning sources

<table>
<tr><td colspan="2">Generic PSELs, DEQ would permit those sources using a limit based on their capacity or potential to emit. Permitting sources at capacity or potential to emit:
Creates permits that more accurately reflect actual emissions;
Provides more regulatory certainty;
Avoids over-allocation of air resources;
Provides transparency for communities; and
Allows DEQ to review air quality modeling of emissions to ensure compliance with short-term National Ambient Air Quality Standards for all new permits and some permit modifications.</td></tr>
<tr><th>What need would the proposed rule changes address?</th><th>How would the proposed rule changes address the need?</th></tr>
<tr><td>DEQ rules will establish permit requirements “to prevent violation of an ambient air quality standard caused or projected to be caused substantially by emissions from the source as determined by modeling, monitoring, or a combination thereof.” [OAR 340-226-0140 Highest and Best Practicable Treatment and Control: Additional Control Requirements for Stationary Sources of Air Contaminants] In 2006, EPA lowered the primary and secondary 24-hour $PM_{2.5}$ standards. In 2010, EPA established 1-hour NAAQS for both NO_2 and SO_2 for the first time. Significant Emission Rates, on which Generic PSELs are based, were established in 1980, before 1-hour NAAQS were set. Significant Emission Rates are based on long-term (annual) emissions which do not consider the variability of operations on a short-term basis. Because of this, Significant Emission Rates may not be protective of the short-term NAAQS in many cases.

The Generic PSELs allow a source to expand operations and increase emissions up to the Significant Emission Rate without having to go through significant permit review or public notice, which increases the possibility of violations of short-term NAAQS.</td><td>The proposed rule change to eliminate the use of Generic PSEL gives DEQ the option to permit sources at capacity or potential to emit instead of Generic PSELs. Without the extra “cushion” of the Generic PSEL, DEQ can require evaluation of increases that are less than the Significant Emission Rates and apply its existing rules to require modeling information.</td></tr>
<tr><td>Most sources that have Generic PSELs in their permits emit at a small percentage of the Generic PSEL.</td><td>Permitting at capacity or potential to emit instead of Generic PSELs creates permits that more accurately reflect actual emissions, providing more transparency for communities.</td></tr>
</table>

Permitting at capacity or potential to emit would reduce the risk of adverse findings from EPA. The current practice of issuing Generic PSELs does not assure protection of NAAQS. An owner or operator can increase emissions under its Generic PSEL and still exceed short-term NAAQS.	To protect short-term NAAQS and comply with the Clean Air Act, DEQ must evaluate increases that are less than the Significant Emission Rates and apply its existing rules to require modeling information. DEQ anticipates an increase in permit modifications. This change may also increase the opportunity for public comment from impacted communities.
Title V sources are required to pay fees based on permitted emissions (i.e., Generic level PSELs) or potential to emit. DEQ performs an audit of Title V fees every three years. The audit is resource intensive and requires a staff person to work 4-6 hours/day and a second staff person to work one full day/week for 4 months. The cost of the audit is approximately $40,000. For sources that pay on the Generic level PSELs rather than their potential to emit, DEQ refunds fees for overpayment since their potential to emit is less than the Generic level PSEL.	The proposed rule changes will eliminate the work needed to refund the overpayment of fees based on Generic level PSELs by Title V sources. Permittees on Air Contaminant Discharge Permits do not pay fees based on emissions.

Clarify and update the Notice of Intent to Construct rules.

Whenever an owner or operator of a facility, permitted or unpermitted, wants to construct something, whether it's building a brand new facility, modifying an existing facility, or installing equipment at an unpermitted facility, the owner or operator must notify DEQ and submit the correct application forms in accordance with the Notice of Intent to Construct rules. This includes equipment that emits pollution and equipment that controls pollution.

The proposed rule changes will promote consistent construction approval through the Notice of Intent to Construct/Notice of Approval process for all sources, both sources permitted through Air Contaminant Discharge Permits or Title V permits, and also for unpermitted sources. Several resource intensive issues have been identified with the NC rules and how they have been interpreted or implemented. The main issue is that the rules are not clear on what type of construction/modification qualifies for a Type 1 or a Type 2 NC. Another issue that will be addressed is that the rules allow for default approvals of NCs if DEQ does not respond to a source within the defined timeline. In many cases an NC should be reviewed before it is approved.

What need would the proposed rule changes address?	**How would the proposed rule changes address the need?**
The Title V construction rules in OAR 340-218-0190 point to the NC rules in OAR 340-210-0205	The proposed rule changes add "Notice of Approval" for Title V sources to make the

through 340-210-0250 but call them "Notice of Approval." There is no mention of "Notice of Approval" in the NC rules.	rules clearer that they also apply to Title V sources.
There has been some confusion on the following: • Difference between Type 1 and Type 2 NCs • Emission thresholds apply to the emissions unit, not the whole source	The proposed NC rules will: • More clearly distinguish between Type 1 and Type 2 NCs • Establish a list of Type 1 NCs that do not need approval; and • Clarify that the emissions thresholds apply to emissions units, not the whole source.
Some construction projects need no review at all, and therefore, no approval. Some NCs have been inappropriately approved by default because the rules allow for a 10-day default approval.	The proposed rule changes establish "notification only" construction projects to replace the Type 1 NC. Sources need to notify DEQ of the installation of the equipment but do not need to wait for approval. The proposed rule changes will eliminate the 10-day default approval and expedite permitting. DEQ will expand the list of "notification only" equipment for the Type 1 NC in a future rulemaking based on implementation experience. Sources can request that DEQ verify that emissions are less than or equal to de minimis levels, giving DEQ 30 days to do so, before commencing construction.
Most NC approvals are completed in a timely manner but there have been instances where the construction has not been completed (e.g., nine years after approval and construction still has not been completed).	The proposed rule changes add expiration dates for NC approvals. Even approval for major construction projects approved under the New Source Review program terminates after 18 months unless the source can show good cause for an extension.
Current rules do not require sources to construct or modify in accordance with approved plans. If this does not occur, sources should be required to resubmit a corrected application for review.	The proposed rule changes require sources to construct or modify their facility in accordance with the approved plans and specifications. This is especially important for sources that do air quality modeling and require permit conditions to protect the NAAQS.
Require that sources must construct or modify in accordance with approved plans submitted with their applications.	

Construction approvals are based on the application submitted by the owner or operator. If construction is not completed in accordance with the approved plans, the emissions and ambient air quality impacts may not align with DEQ's approval.

What need would the proposed rule changes address?	How would the proposed rule changes address the need?
DEQ and the public need to know that the project is constructed in accordance with DEQ's approval.	The proposed rule clarifies that sources must construct or modify in accordance with approved plans submitted with application.
There are times when construction cannot be completed in accordance with DEQ's approval.	The proposed rule changes require the owner or operator to notify DEQ of any corrections and revisions to the plans and specifications upon becoming aware of the changes. DEQ will evaluate whether the correction or revisions negatively impact air quality.

Change permit type if sources are on the wrong permit.

Current rules allow DEQ to require sources to be on a more complex permit (Standard) rather than a Simple permit based on the following criteria:

- The nature, extent and toxicity of the source's emissions;
- The complexity of the source and the rules applicable to that source;
- The complexity of the emission controls and potential threat to human health and the environment if the emission controls fail;
- The location of the source; and
- The compliance history of the source.

DEQ proposes to use this same criteria to evaluate what type of permit a source should be required to obtain for all permit types: General, Basic, Simple or Standard. This would also ensure that the source receives the correct amount of oversight, both when the permit is written and when the source is inspected.

Permit Type	Compliance Inspection Frequency
Basic ACDP	Every 10 years
General ACDP	Every 5-10 years
Simple ACDP	Every 4 years
Standard ACDP	Every 3-5 years

What need would the proposed rule changes address?	How would the proposed rule changes address the need?

Some sources may be on the wrong type of permit and do not receive the correct amount of oversight.	The proposed rule changes would clarify that the criteria DEQ uses to place sources on the correct type of permit would apply to all permit types.
Eliminate provisions that currently allow sources to operate without using pollution control devices for 48-hours under the excess emission rules.	
Excess emissions are defined as emissions in excess of a permit limit, in excess of a risk limit, or emissions in violation of any applicable air quality rule. Excess emissions can occur during startup, shutdown, maintenance or malfunction of equipment. The current rules allow a source to operate for 48 hours before ceasing operation if there is a condition causing excess emissions. The owner or operator does not have to cease operation if DEQ approves procedures to minimize excess emissions until the condition causing the excess emissions is corrected or brought under control.	
What need would the proposed rule changes address?	**How would the proposed rule changes address the need?**
Venting uncontrolled emissions for 48 hours or more can cause harmful impacts to the neighboring community, especially if the emissions contain toxic air contaminants.	The proposed rule changes would: • Not allow 48 hours of operation without a control device; • Reduce emissions to the greatest extent practicable; • Only allow continued operation of process equipment unless immediate shutdown would result in physical damage to the equipment or facility, cause injury to employees, or result in emissions associated with shutdown and the subsequent startup that would exceed those emissions resulting from continued operation; or • Cease operation of the equipment or facility until the condition causing the excess emissions has been corrected or brought under control; and
Clarify DEQ's ability to require and use modeling in addition to monitoring (by DEQ or sources) for NAAQS exceedance verification.	
The National Ambient Air Quality Standards, established by the EPA under authority of the Clean Air Act, are limits on atmospheric concentration of six criteria pollutants in outdoor air. These criteria pollutants (carbon monoxide, nitrogen dioxide, ground level ozone, particulate matter, sulfur dioxide and lead) cause smog, acid rain, and other health hazards. After EPA sets a new NAAQS or revises an existing standard for a criteria air pollutant, the Clean Air Act requires EPA to determine if areas of the country meet the new standards.	

In 2014, EPA promulgated a rule directing state and tribal air agencies to provide data to characterize current air quality in areas with large sources of sulfur dioxide emissions to identify maximum 1-hour SO_2 concentrations in ambient air. The rule also sets forth a process and timetables by which air agencies must characterize air quality through ambient monitoring and/or air quality modeling techniques and submit such data to the EPA. The air quality data developed by air agencies could be used by the EPA in future actions to evaluate an area's air quality under the 2010 1-hour SO_2 NAAQS, including area designations and redesignations. Current DEQ rules require DEQ to monitor to verify NAAQS exceedance. Ambient monitoring can be very time consuming and expensive.	
What need would the proposed rule changes address?	**How would the proposed rule changes address the need?**
The Clean Air Act defines a nonattainment area as the area that is violating the NAAQS or a nearby area that is contributing to a violation. For example, the $PM_{2.5}$ standards are based on averaging air quality measurements both annually and on a 24-hour basis. The annual standard for $PM_{2.5}$ is met whenever the 3-year average of the annual mean $PM_{2.5}$ concentrations for designated monitoring sites in an area is less than or equal to 15.0 $\mu g/m^3$. The 24-hour standard for $PM_{2.5}$ is met whenever the 3-year average of the annual 98^{th} percentile of values at designated monitoring sites in an area is less than or equal to 35 $\mu g/m^3$. Because nonattainment areas are based on averaging air quality measurements for three years, monitoring to define a nonattainment area can be very time consuming and expensive.	The proposed rule changes give DEQ the ability to use air quality modeling data, rather than monitoring data, to designate a nonattainment area, as allowed by EPA.
The existing rules between a violation of a NAAQS and an exceedance of a NAAQS. A violation of NAAQS would require nonattainment designation for the selected area. Violations of NAAQS would be determined by three years of monitoring data or modeling data, as discussed above. An individual source could exceed a NAAQS. An exceedance of a NAAQS could be determined	The proposed rule changes clarify that DEQ may use air quality modeling or monitoring, or require a source to use either, to determine if a source is causing or contributing to an exceedance of a NAAQS.

based on air quality modeling of an individual source or ambient monitoring.	

Clarify that permittees must comply with all conditions in their permit.

Currently, there is no air quality rule that requires permittee compliance with all permit conditions. DEQ proposes to make it clear that compliance with all permit conditions is required.

What need would the proposed rule changes address?	How would the proposed rule changes address the need?
The lack of an explicit rule that requires permittees to comply with all conditions in permits can make evaluation and assessment of enforcement cases more difficult.	The proposed rule changes clarify that permittees must comply with all conditions in their permits.

STREAMLINE RULES AND MAKE PROCESS IMPROVEMENTS

The 2018 Secretary of State's Audits Division found that DEQ should evaluate staffing and workloads among Title V and ACDP permit writers and provide better guidance to both staff and businesses to help reduce the agency's air quality permit backlog. To facilitate reduction of the backlog and to align with EPA rules, DEQ is proposing the rule changes listed below:

- Extend permit terms for Simple permits to better allocate DEQ resources to work on more significant permitting issues;
- Provide no expiration date for New Source Review permits that must be incorporated into a Title V permit;
- Expand the use of short-term activity permits for temporary operations beyond unexpected and emergency activities, providing more flexibility for businesses;
- Provide a petition process for additional industrial categories to have general permits, rather than source-specific permits;
- Require more complete applications at permit renewal to ensure DEQ staff have sufficient information to process the renewal applications;
- Require additional information to be submitted by a date certain with an opportunity to request more time if needed rather than allowing 90 days for all submittals;
- Clarify reinstatement procedures for owners or operators whose permits have been terminated because of a late permit renewal application or late payment of fees;
- Add 1-bromopropane (1-BP) to the list of state Hazardous Air Pollutants to make it consistent with its listing under Section 112 of the Clean Air Act, as recently added by the EPA; and
- Provide flexibility for assessment of Exempt Toxics Emissions Units under the Cleaner Air Oregon program.

Extend permit terms for Simple permits.

Air Contaminant Discharge Permits are issued for varying permit terms, depending on the type of permit. More complex permits have shorter permit terms because DEQ needs more oversight of these sources.

Permit Type	Permit Term
Basic ACDP	Up to 10 years
General ACDP	Up to 10 years
Simple ACDP	Up to 5 years

What need would the proposed rule changes address?	How would the proposed rule changes address the need?
Most facilities that are on less complex permits change little between permit issuance and renewal. Staff time would be better spent addressing major issues.	The proposed rule changes provide an extended permit term from 5 years to 10 years for Simple permits to streamline the permitting process and also allow for permit modifications when needed. In some cases, permits must be updated because of changes proposed by the source or because rules have changed. DEQ must have the ability to change the permit for these reasons.

Provide no expiration date for New Source Review permits that must be incorporated into a Title V permit.

Title V permits allow for operation only, not construction. If an owner or operator of a Title V source proposes construction, it must be done through the Notice of Intent to Construct rules or through NSR rules. A Title V source that is subject to NSR has permit conditions from that NSR permit that must be incorporated into the Title V permit. The NSR permit is cited as the authority for those permit conditions. After the NSR permit conditions are incorporated into the Title V permit, the NSR permit expires, usually 5 years after permit issuance. If those NSR permit conditions ever need to be modified (e.g., the BACT limits were set based on normal operation, not during startup or shutdown), the NSR permit must first be reissued. Rather than have the source reapply for the same NSR permit, DEQ is proposing no expiration date for that NSR permit. This way, the source can apply for a permit modification to modify the NSR permit conditions. If the NSR permit must have major revisions or the source proposes changes that would trigger NSR again, DEQ would require application for a new NSR permit.

What need would the proposed rule changes address?	How would the proposed rule changes address the need?
DEQ must reissue an expired NSR permit in order to change any NSR permit conditions.	Removing expiration dates for NSR permits that must be incorporated into Title V permits will eliminate the time and expense for businesses to reapply for the same permit. The proposed rule change will also save DEQ resources from having to reissue the permit. No permit fees are required for

	these NSR permits that do not expire because in many cases, the permit will never need to be changed.
Expand the use of short-term activity permits for temporary operations.	
Short-term activity permits are currently allowed only for unexpected and emergency activities. These permits expire in 60 days and are not allowed to be renewed. At times, DEQ has allowed short-term planned operations to occur under a Mutual Agreement and Order, a tool under DEQ's formal enforcement actions. These planned short-term activities are not allowed under existing permits and arguably should not be handled as enforcement actions because the business asks permission to perform these types of activities, giving DEQ an opportunity to assess the environmental impacts of the proposed action. In addition, it is resource intensive for DEQ to develop Mutual Agreement and Orders.	
What need would the proposed rule changes address?	**How would the proposed rule changes address the need?**
Sources have asked to permit planned temporary activities that are currently not allowed under their permit but would only take place for a short time.	The proposed rule changes expand the use of short-term activity permits for activities such as: • Operation or source test of a pilot or an exploratory emissions unit; and • Other similar types of temporary activities that emit air contaminants. Short-term activity permits could also be renewed for one additional 60-day period if approved by DEQ.
Provide a petition process to add new industrial categories for general permits.	
General permits were created to achieve efficiency in permit processing and to facilitate DEQ's implementation of federal standards that apply to area sources of hazardous air pollutants (National Emission Standards for Hazardous Air Pollutants). General ACDPs are available for a variety of industries such as rock crushing, prepared feeds, metal fabrication and surface coating , where a standardized permit is appropriate to regulate any such facility seeking to operate. This allows a source to avoid the higher cost of a Simple or Standard permit yet allows for DEQ oversight.	
What need would the proposed rule changes address?	**How would the proposed rule changes address the need?**
Similar businesses can be permitted on the same General ACDP but only if DEQ has developed a General ACDP for that industry type.	The proposed rule changes include the option for a business or member of the public to petition DEQ to develop a General ACDP if there are enough similar sources that would qualify for the permit.

	The petition should include: • Justification for why a new category General ACDP should be developed; • Approximate number of businesses that would be eligible for the General ACDP; and • Criteria for qualification of the General ACDP.
Require more complete applications at permit renewal rather than streamlined applications that do not provide enough information.	
Current rules allow streamlined permit renewal applications for Standard and Title V permits unless there are significant changes to a permit.	
What need would the proposed rule changes address?	**How would the proposed rule changes address the need?**
Many businesses take advantage of this streamlined renewal application option even though many changes have taken place since the last permit was issued. In these instances, DEQ must try to renew the permit with incomplete information. The intent was to streamline the renewal process but in fact, it makes permit renewals more difficult.	The proposed rule changes will require submittal of more complete applications (electronic submittals) at Standard ACDP and Title V permit renewal.
Require additional information to be submitted by a date certain with an opportunity to request more time if needed rather than allowing 90 days for all submittals.	
Sources requesting or renewing Air Contaminant Discharge Permits have 90 days to submit additional information requested by DEQ, regardless of the type of request.	
What need would the proposed rule changes address?	**How would the proposed rule changes address the need?**
DEQ often must ask for more information to draft a permit. Some information can be submitted within hours or days. Allowing 90 days to submit information causes delays in permit processing.	The proposed rule changes modify the time sources must submit information in response to a request from DEQ from 90 days to a date certain. Some information is easier to gather and will be given less time to submit. Some information is more difficult to gather and will be given more time to submit. A source can request more time for good reason. If the applicant does not submit the requested information, DEQ may return or deny the application.

Clarify reinstatement procedures for owners or operators whose permits have been terminated because of a late permit renewal application or late payment of fees.	
Owners or operators are required to submit permit renewal applications before their permit expires in order to give DEQ staff time to renew the permit. If the owner or operator does not submit a timely renewal application, the permit terminates upon the expiration date. In addition, if the owner or operator does not submit the permitting fees by their annual due date, the permit terminates 90 days after the invoice date unless prior arrangements for a payment plan have been approved in writing by DEQ.	
What need would the proposed rule changes address?	**How would the proposed rule changes address the need?**
The rules treat failure to submit a renewal application the same as failure to submit annual fees.	The proposed rule changes clarify that reinstatement of a permit for failure to submit a renewal application can only occur if not later than 30 days after the permit expiration date, the owner or operator submits the permit renewal application along with a late application fee which is equivalent to the new permit fee. The proposed rule changes clarify that reinstatement of a permit for failure to pay annual fees can only occur if, not later than 90 days after the permit termination date, the owner or operator submits all unpaid fees and applicable late fees. If neither of the actions above happen, the owner or operator of a terminated permit must apply as a new source, pay new permit fees and late fees, and cannot operate until the permit is issued.
Add 1-bromopropane (1-BP) to the list of state Hazardous Air Pollutants to make it consistent with its listing under Section 112 of the Clean Air Act.	
EPA recently added 1-bromopropane (1-BP) to the list of Hazardous Air Pollutants under Section 112 of the Clean Air Act. Uses include: • An aerosol solvent in asphalt, aircraft, and synthetic fiber manufacturing • A vapor and immersion degreaser in metals, metal products, plastics, optics, and electronics manufacturing; • A cleaning solvent for dry cleaning; • An adhesive in laminates and foam products; and	

• A chemical intermediate in pharmaceuticals, pesticides, quaternary ammonium compounds, flavors, and fragrances.	
What need would the proposed rule changes address?	**How would the proposed rule changes address the need?**
The proposed addition of 1-bromopropone to the state list of HAPs would ensure that DEQ's program would align with EPA's program to regulate HAPs.	Adding 1-bromopropane to the state list of HAPs would ensure that DEQ can regulate sources of these emissions.
Provide flexibility for assessment of Exempt Toxics Emissions Units under Cleaner Air Oregon.	
DEQ has the authority to determine if activities at a source can be Exempt Toxics Emissions Units for the purpose of conducting a risk assessment under the Cleaner Air Oregon program. The current rules do not provide for the development of minimum reporting thresholds for activities that may not materially contribute to the final source risk at a facility.	
What need would the proposed rule changes address?	**How would the proposed rule changes address the need?**
Some Toxics Emissions Units pose very low risk but without a minimum reporting thresholds for these activities, sources must include them in their risk assessment and DEQ must evaluate their impacts. This exercise is resource intensive for both sources and DEQ.	The proposed rules would allow DEQ to establish minimum reporting thresholds to improve both the efficiency of the risk assessment process, as well as the efficacy of permitting under the Cleaner Air Oregon program. Sources would then provide justification for Exempt Toxics Emissions Unit determinations that are based on conservative risk screening thresholds. DEQ will maintain approval authority for these determinations.
Clarify rules	
The proposed rule changes listed below are to clarify current rules that are arguably unclear.	
What need would the proposed rule changes address?	**How would the proposed rule changes address the need?**
It is unclear whether the permit is effective on the date it is signed, on the date it is received by the permittee, or 20 days after receipt of the permit when the source can request a contested case hearing.	The proposed rule changes clarify that the effective date of permit is the date that it is signed unless a contested case hearing is requested.
It is unclear whether a Title V permit application must be timely or complete or both.	The proposed rule changes specify that applications need to be both timely and complete.

OAR 340-216-8020 Table 2 says the fees are for ACDP sources only.	The proposed rule changes clarify that Type 2 NC fee, in addition to some of the other specific activity permit fees, applies to Title V sources, if applicable.
A few of the OAR 340-216-8020 Table 1 categories that list the sources that must apply for a permit are not clear.	The proposed rule changes clarify the following Table 1 categories: Part A: • 4 Individual natural gas or propane-fired boilers with heat input rating between 9.9 and 29.9 MMBTU/hour, constructed after June 9, 1989, that do not use more than 9,999 gallons per year of #2 diesel oil as a backup fuel. Part B: • 13 Oil-fired boilers and other fuel burning equipment whose total heat input rating at the source is over 10 MMBTU/hour; or individual natural gas, propane, or butane-fired boilers and other fuel burning equipment 30 MMBTU/hour or greater heat input rating. • 51 Molded container manufacturing. • 52 Motor coach manufacturing • 59 Paint stripping and miscellaneous surface coating operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding paint stripping and miscellaneous surface coating operations using less than 20 gallons of coating and also using less than 20 gallons of methylene chloride containing paint stripper per year. • 79 Surface coating operations with actual emissions of VOCs, if the source were to operate uncontrolled, of 10 or more tons/year. • 85 All other sources, both stationary and portable, not listed herein which would have the capacity of 5 or more tons per year of direct PM2.5 or PM10 if located in a PM2.5 or PM10 nonattainment or maintenance area, or 10 or more tons per year of any single criteria pollutant .

	• 86 Chemical manufacturing facilities that do not transfer liquids containing organic HAP listed in Table 1 of 40 CFR part 63 subpart VVVVVV to tank trucks or railcars and are not subject to emission limits in Table 2, 3, 4, 5, 6, or 8 of 40 CFR part 63 subpart VVVVVV.
Statewide opacity and grain loading standards apply to all emissions units unless the rules contain a specific exemption. There is no exemption for recovery furnaces at kraft pulp mills, which are subject to more specific rules.	The proposed rule changes exempt recovery furnaces from the statewide opacity and grain loading standards because there are specific rules that apply to them.

How will DEQ know the rules have addressed the needs stated above?

To determine whether the rulemaking met its objectives, DEQ:

- Will be able to provide more transparency to the public when issuing permits that are based on potential or capacity to emit, rather than Generic PSELs;
- Will ensure that businesses are on the correct type of permit for the complexity of their facility;
- Will ensure the safety of the public and workers by eliminating the ability for businesses to operation without pollution control devices for up to 48 hours;
- Will be able to process some permits on a timelier basis;
- Will provide more flexibility for owners or operators that can have short-term activities not allowed under their permits to be permitted; and
- Focus resources on more significant permitting issues.

To determine whether the rulemaking met its objectives to clarify the rules, DEQ would confirm, as part of ongoing interaction with regulated parties, whether regulated parties have a clearer understanding of the program and their obligations. DEQ expects to see a reduction in the number of businesses that request help interpreting the rules. In addition, DEQ expects to see a permit backlog reduction as a sign that the proposed rule changes are effective after training on the proposed rules and full implementation as long as adequate resources are available.

If EQC adopts the proposed rule changes after considering public comments, DEQ would submit the rules to EPA to update Oregon's State Implementation Plan. DEQ would know that one of the goals of this rulemaking has been addressed when EPA reviews and approves the State Implementation Plan revision.

Rules Affected, Authorities, Supporting Documents

ORS 183.335(2)(b)

Lead division

Air Quality

Program or activity

Air Operations

Chapter 340 actions: Amend and repeal

Amend				
200-0020	200-0025	200-0035	200-0040	204-0300
204-0310	206-0010	208-0110	208-0510	208-0610
209-0080	210-0100	210-0205	210-0225	210-0230
210-0240	210-0250	214-0110	214-0114	214-0130
214-0330	216-0020	216-0025	216-0040	216-0054
216-0056	216-0060	216-0064	216-0066	216-0068
216-0082	216-0084	216-8010	216-8020	218-0020
218-0040	218-0050	218-0080	218-0150	218-0170
218-0180	218-0240	220-0180	222-0020	222-0035
222-0041	222-0042	222-0046	222-0060	224-0030
224-0520	224-0530	225-0030	225-0050	225-0070
226-0100	226-0130	226-0140	226-0210	228-0210
232-0030	232-0040	232-0090	232-0160	232-0170
234-0010	234-0210	236-8010	238-0030	238-0040
238-0070	238-0080	244-0040	245-0060	
Repeal				
210-0215	222-0040	224-0100		

Statutory Authority - ORS				
468.020	468.065	468A.025	468A.040	468A.050
468A.055	468A.070	468A.135	468A.155	468A.310
468A.337				

Statutes Implemented - ORS				
468.020	468.065	468.070	468A.010	468A.015
468A.025	468A.035	468A.040	468A.050	468A.055
468A.070	468A.135	468A.155	468A.310	468A.337

Divisions 210, 216 and 218 include rules, programs or activities considered land use programs under the DEQ State Agency Coordination Program.

Fee Analysis

This rulemaking does not involve new fees.

- OAR 340-210-0100(2) contains registration fees and late fees. The proposed change moves these fees to OAR 340-216-8020 Table 2 where all the other fees have been adopted.
- DEQ is proposing to clarify that Title V sources may be subject to some of the ACDP fees in OAR 340-216-8020 Table 2. DEQ currently invoices Title V sources for these fees if they apply for any of the listed activities.
- In addition, DEQ is proposing to remove the OAR 340-216-8020 Table 2, Part 2a and Part 2b because these fees apply through June 30, 2022, and this date has passed.

Statement of Fiscal and Economic Impact

Fiscal and Economic Impact

The proposed rule and rule amendments may have fiscal and economic impacts on businesses, state and federal agencies, units of local governments and the public. Fiscal impacts can be positive or negative to those affected. As examples, reducing health costs to the public would be a positive impact, and increasing costs of regulatory compliance for businesses would be a negative impact.

With the removal of the Minor New Source Review program from the proposed rulemaking, businesses will be less likely to incur the costs of installing pollution control equipment unless there is an exceedance of the National Ambient Air Quality Standard. Businesses will be required to pay the costs of performing air quality modeling to ensure that the National Ambient Air Quality Standard are protected. DEQ offers technical assistance to small businesses and can perform this modeling at no cost.

Statement of cost of compliance

State agencies

Federal and state agencies hold approximately 30 Air Contaminant Discharge Permits. For state agencies, the cost to comply with the proposed rule changes are similar to costs described under small businesses.

DEQ expects to see an overall increase in workload as a result of the proposed rule changes. DEQ workloads would initially increase as staff become familiar with the proposed rule changes and would level off after the first years of implementation. With the delayed effective date of March 1, 2023, DEQ will develop a detailed implementation plan that will make implementation more straightforward. The following table lists proposed rule changes that would either increase or decrease workload for DEQ staff.

Increase in Workload	Decrease in Workload
Possible increase in permit modification applications with elimination of Generic PSELs	Clarifications to the Notice of Intent to Construct rules
Increase in air quality modeling analysis review for Type 2 and Type 3 Notice of Intent to Construct applications for new or replaced equipment needed to ensure the National Ambient Air Quality Standards are protected	Type 1 NC “notice & go” list of equipment that do not require review
	More complete permit renewal applications
	Simple permits have a permit term of 10 years rather than 5 years
	Provide no expiration date for New Source

Increase in Workload	Decrease in Workload
	Review permits that must be incorporated into a Title V Operating Permit
	Expand the use of short-term activity permits for temporary operations beyond unexpected and emergency activities, providing more flexibility for businesses
	Provide a petition process for additional industrial categories to have general permits, rather than source-specific permits
	Eliminate the work needed to refund the overpayment of fees based on Generic level PSELs by Title V sources
	Allow DEQ to establish minimum reporting thresholds to improve both the efficiency of the risk assessment process, as well as the efficacy of permitting under the Cleaner Air Oregon program.

Local governments

Local governments hold approximately 57 Air Contaminant Discharge Permits. For local governments, the cost to comply with the proposed rule changes is similar to costs described under small businesses.

Large businesses - businesses with more than 50 employees

Approximately 974 large businesses hold Air Contaminant Discharge Permits, and 90 large businesses hold Title V operating permits as of May 12, 2022.

Clarify and update the Notice of Intent to Construct rules and require modeling.
The proposed rule changes to the Notice of Intent to Construct rules require an air quality modeling analysis for new and replaced equipment that may cause a delay in permitting. If this work is not done in house, owners or operators may need to hire consultants to perform this work. Consultant costs can range from $200/hour to $300/hour. The extent of consultant services depends on the complexity of the proposed construction. Without detailed information about the proposed construction, DEQ cannot estimate consultant fees but did receive the following information from a Rules Advisory Committee member.

- Air quality modeling analysis for the whole facility:
  - Initial model set-up can range anywhere from $10,000 to $25,000, depending on the complexity of the facility and availability of previous modeling performed at the facility, such as existing Cleaner Air Oregon models. These costs are generally attributed to an initial run for all criteria pollutants with ambient air quality standards and any subsequent model would likely cost $1,000 to $2,000 per pollutant and model run. DEQ expects the modeling costs to be much less for a single piece of equipment.
  - Additional costs for modeling protocol and report development should also be

accounted for. Modeling protocol development can range from $5,000 to $10,000, depending on the complexity. A modeling protocol is not required for modeling of a single piece of equipment. Report development carries an additional $5,000 to $10,000 cost, also dependent upon complexity. Any additional communication and follow-up information requested by DEQ could also increase modeling costs for a facility.

- As noted here, the total costs for performing a single NAAQS analysis can range from $25,000 to over $55,000.

DEQ expects the modeling costs to be much less for a single emissions unit, as is required by the proposed Notice of Intent to Construct rule changes.

If the owner or operator has previously completed modeling to demonstrate compliance with the National Ambient Air Quality standards or under OAR Chapter 340, Division 245, Cleaner Air Oregon, then no additional modeling review fees are required. If the owner or operator has not previously completed air quality modeling, the owner or operator may be required to pay the $9,000 modeling review fee in OAR 340-216-8020 if refined modeling is required.

The proposed rule changes to the Notice of Intent to Construct rules could both increase and decrease costs for applicants for the following reasons:

- Type 2 and Type 3 NCs will require an air quality modeling analysis.
- The proposed rule changes will be clearer so it will be easier to know when an NC is required or not.
- The proposed rule changes allow for 'notification only' of some types of construction so businesses will not have to wait for approval before commencing construction of Type 1 NCs. This would streamline permitting.

Some businesses may be required to install air pollution control devices because their emissions may cause exceedances of the National Ambient Air Quality Standards. But DEQ does not have sufficient information to predict the specific costs of new required equipment or the sources that may need to install equipment.

- DEQ cannot anticipate which businesses will submit construction approval applications and what type of construction they propose. DEQ would not have enough detailed information about any specific proposed construction to be able to accurately estimate the cost of pollution control devices. This estimate would be supplied by the manufacturer directly to the business proposing construction.
- Until the air quality analyses are submitted and reviewed, DEQ cannot anticipate which businesses will be required to reduce emissions.

Because of these unknowns, DEQ does not have the information needed to estimate how many businesses may be affected or what actual costs they may incur.

The proposed rule changes would allow businesses flexibility in choosing a method to reduce emissions through the application of pollution prevention or pollution control equipment. If owners or operators choose to install pollution control equipment, Table 1 below shows what

the range of estimated costs could be. Small businesses may also incur these costs if required to install pollution control equipment. DEQ drew costs from DEQ's Cleaner Air Oregon rulemaking fiscal impact statement(2018)[1] and DEQ's Regional Haze rulemaking fiscal impact statement(2021)[2]. The dollars have been adjusted to 2022 dollars.[3]

Table 1
Cost of Pollution Control Equipment Installation and Maintenance

Control Device Type	Types of Pollutants Reduced	Types of Facilities Controlled	Initial Costs[4, 5]	Annual Operating Costs
			low – high	low – high
Fabric filter (baghouse)	PM, HAP PM	Asphalt batch plants, concrete batch kilns, steel mills, foundries, fertilizer plants, and other industrial processes, glass furnaces	$410,400 - $21,090,000	$205,200 - $7,068,000
Electrostatic precipitator (ESP)	PM, HAP PM	Power plants, steel and paper mills, smelters, cement plants, oil refineries	$364,800 - $11,400,000	$114,000 - $8,664,000
Catalytic Ceramic Filters (CCF)	NO_x, PM, SO_2	Glass furnaces	Approximately $5,300 per ton of pollutant removed	
Enclosure	Fugitive PM or VOCs	Any process or operation where emissions capture is required, i.e., printing, coating, laminating	$15,960 - $478,800	$456 - $11,400
HEPA filter	Chrome emissions	Chrome plating	$14,820 - $273,600	Application specific
Wet scrubber (packed towers, spray chambers, Venturi scrubbers)	Gases, vapors, sulfur oxides, corrosive acidic or basic gas streams,	Asphalt and concrete batch plants; facilities that emit sulfur oxides, hydrogen sulfide, hydrogen chloride, ammonia, and other gases that can be absorbed into water and neutralized with the appropriate reagent	$28,500 - $855,000	$21,660 - $946,200

[1] https://www.oregon.gov/deq/rulemaking/Documents/AQPermits2022CAOfis.pdf
[2] https://www.oregon.gov/deq/rulemaking/Documents/AQPermits2022RHfis.pdf
[3] Inflation Calculator | Find US Dollar's Value from 1913-2022 (usinflationcalculator.com)
[4] Costs are from examples in the EPA Air Pollution Control Cost Manual, Report No. 452/B-02-001, EPA Air Pollution Control Technology Fact Sheets, and information provided by permitted facilities and regulatory agencies.
[5] Costs are estimated based on best available information, but may be higher or lower than shown, depending on facility-specific conditions and business decisions.

Table 1 Cost of Pollution Control Equipment Installation and Maintenance				
Control Device Type	**Types of Pollutants Reduced**	**Types of Facilities Controlled**	**Initial Costs[4, 5]**	**Annual Operating Costs**
			low – high	**low – high**
	solid particles, liquid droplets			
Low NOx Burner (LNB)	NO_x	Combustion of natural gas	$10,600 – $47,700 per MMBtu/hour of equipment capacity	$1,060 – $5,300/year, per MMBtu/hour of equipment capacity
Selective Catalytic Reduction (SCR)	NO_x	Combustion	$3,180,000 - $31,800,000	$106,000 - $4,240,000 /year
Selective Non-Catalytic Reduction (SNCR)	NO_x	Combustion	$1,060,000 - $6,360,000	$53,000 - $530,000/year
Low Emission Combustion (LEC)	NO_x	Reciprocating natural gas compressor engines	$2,120,000 - $5,300,000 per engine	$2,120 – $318,000/year per engine
Ultra Low Sulfur Diesel Fuel (ULSD)	SO_2	Equipment formerly using high-sulfur #6 Fuel Oil as backup	No additional cost. No additional changes to site.	
Thermal oxidizer	VOCs, gases, fumes, hazardous organics, odors, PM	Landfills, crematories, inks from graphic arts production and printing, can and coil plants, hazardous waste disposal. semiconductor manufacturing	$19,380 - $7,068,000	$3,990 - $5,928,000
Regenerative thermal oxidizer	VOCs	Paint booths, printers, paper mills, municipal waste treatment facilities	$1,071,600 - $8,778,000	$125,400 - $627,000
Catalytic reactor	VOCs, gases	Landfills, oil refineries, printing or paint shops	$23,940 - $7,068,000	$4,446 - $1,938,000

Table 1 Cost of Pollution Control Equipment Installation and Maintenance				
Control Device Type	**Types of Pollutants Reduced**	**Types of Facilities Controlled**	**Initial Costs[4, 5]**	**Annual Operating Costs**
			low – high	**low – high**
Carbon adsorber	Vapor-phase VOCs, hazardous air pollutants (HAPs)	Soil remediation facilities, oil refineries, steel mills, printers, wastewater treatment plants	$410,400 - $2,850,000	Not available
Biofilter	VOCs, odors, hydrogen sulfide (H_2S), mercaptans (organic sulfides)	Wastewater treatment plants, wood products facilities, industrial processes	$410,4000 - $4,104,000	Not available
Fume suppressants	Chromic acid mist, chromium, cadmium and other plating metals	Chromic acid anodizing, chrome plating operations	Up to $139,080	Not available

DEQ acknowledges that some, though not all, pollution controls will increase a facility's energy use and energy costs. Pollution controls that rely on the combustion of natural gas (e.g., thermal oxidizer) will increase emissions of some air pollutants while reducing VOC emissions. DEQ would expect energy use and cost to vary depending on several facility-specific and control-specific characteristics. Even if additional heat is required, in some cases, that could be supplied by waste heat, not requiring more energy use.

As an alternative to or in addition to the controls above, facilities may be able to use pollution prevention to reduce emissions. In EPA's and DEQ's hierarchy of pollution management strategies (acceptable ways to reduce pollution), pollution prevention, also known as source reduction, is preferred over the addition of pollution controls and treatment whenever feasible (see Pollution Prevention Act of 1990, https://www.epa.gov/p2/pollution-prevention-act-1990).[6] Pollution prevention has been implemented successfully for cleaning

[6] Pollution prevention is generally preferred because it results in less pollution to control, treat, or dispose of. Pollution controls can generate wastes or contaminated equipment that require end-of-life management. Reducing pollution at the

operations (e.g., metal parts), coating and painting (e.g., marine anti-fouling, wood preservation), lubricants and process fluids (e.g., loss lubrication, mold release agents), and dry cleaning of clothes. In evaluating the costs of pollution prevention, DEQ considers not only the cost of replacing one production method with another, but also capital costs, energy differences, labor costs, waste disposal and quality control considerations. In many instances involving both large and small businesses, DEQ has found that pollution prevention can decrease costs for a facility owner, rather than increase them. Short-term investments in pollution prevention measures can result in savings that may pay for the initial investments over time.

Elimination of Generic Plant Site Emission Limits
If a source must apply for a permit modification for an increase in their Plant Site Emission Limits because PSELs at the generic levels are no longer available, permit modification fees would be charged. The level of the fee would depend on the level of the emissions increase. The permit modification fees for Title V sources are:

- Simple — $2,041
- Moderate — $15,306
- Complex — $30,612

DEQ received 19 requests from sources permitted on Standard ACDPs that have asked for PSEL increases since 2000 to May 16, 2022. This number does not reflect the sources that are permitted on Simple ACDPs that may need to request a PSEL increase in the future if Generic PSELs are eliminated but is an indicator that requests for PSEL increases by Standard permittees are rare.

Eliminate operation without pollution control devices for 48-hours
A business will not be allowed to operate without their air pollution control device for 48 hours under the proposed rule changes to the excess emission rules so may have to shut down operation if they cannot curtail the excess emissions. During the shutdown, the business may be required to curtail production, so it could potentially lose money from loss of production. The proposed rule changes allow continued operation if:

- Reducing or ceasing operation could result in physical damage to the equipment or facility;
- Reducing or ceasing operation could cause injury to employees; or
- Emissions associated with shutdown and the subsequent startup will exceed those emissions resulting from continued operation.

Expanded use of Short-Term Activity Permits
The expanded use of short-term activity permits for temporary operations will increase fees for permittees who apply for these types of permits, but it will also provide flexibility that is not available now. The Short-Term Activity ACDP initial permitting fee is $4,500.

source means fewer hazards posed to the public and the environment. In addition, pollution controls can fail, and toxic substances can be used in unintended ways. Reducing the use of those toxic substances at the source avoids those potential risks.

Provide no expiration date for New Source Review permits that must be incorporated into a Title V permit
No expiration date for New Source Review permits that must be incorporated into Title V permits will eliminate the time and expense for businesses so they do not have to reapply for the same permit. The proposed rule change will also save DEQ resources from having to reissue the permit.

Clarify reinstatement procedures for owners or operators whose permits have been terminated because of a late permit renewal application or late payment of fees
Permittees who do not renew their permits or pay their fees on time and whose permit has been terminated will be required to pay a late application fee equivalent to the new permit application fee that would apply if the source was a new source. Current rules allow reinstatement if the permittee submits a renewal application within 90 days of expiration date. The proposed rules require a complete application no later than 30 days after permit expiration, rather than 90 days. This may have a fiscal impact on permittees that do not renew on time but also allows them to operate under their expired permit rather than requiring the business to shut down or pay daily civil penalties for operating without a permit.

Provide flexibility for Exempt Toxics Emissions Units under Cleaner Air Oregon
The flexibility when determining if activities at a source may be considered Exempt Toxics Emissions Units under the Cleaner Air Oregon program based on their anticipated contribution to source risk may result in a reduction in monitoring and recordkeeping requirements for sources under the CAO program. This will reduce costs for businesses regulated under CAO.

Small businesses - businesses with 50 or fewer employees

DEQ estimated that there were 931 small businesses with air quality permits as of Feb. 4, 2022. There were an additional 514 facilities with air quality permits that did not list the number of employees they have but would presumably fall into businesses with fewer than 50 employees based on types of business (e.g., gasoline stations and dry cleaners). Generally, facilities with less complex permits experience a smaller economic impact than larger facilities with more complex permits. In addition to the fiscal and economic impact described in the large business section above, the proposed rule changes could have the following impacts on small businesses.

The proposed rule changes should decrease costs for small businesses on Basic, General or Simple ACDPs for the following reasons:

- **Extending permit terms for Simple permits.** Owners or operators of these businesses will not have to prepare permit renewal applications as often because of the proposal to extend permit terms for Simple permits from 5 years to 10 years.
- **Provide a petition process to add new industrial categories for general permits.** An owner or operator can petition DEQ to develop a General ACDP if there are

businesses that will qualify. Fees for General ACDPs are much less than for Simple ACDPs.

Elimination of Generic Plant Site Emission Limits

Permitting businesses on source specific Plant Site Emission Limits rather than Generic PSELs may require more permit modifications. Currently, there are 150 sources that are on Simple permits that contain Generic PSELs. If the owner or operator chooses to be permitted at its capacity, a physical modification would be required to increase the capacity. Current rules require the owner or operator to obtain approval of that physical modification to install equipment but may or may not require a permit modification. Under the proposed rule changes, the owner or operator would need to apply and pay for a permit modification. In addition, if the owner or operator is requesting an increase in their Plant Site Emission Limits because Generic PSELs are no longer available, permit modification fees would be charged. The level of the fee would depend on the level of the emissions increase. The permit modification fees for ACDP sources are contained in OAR 340-216-8020 Table 2, Part 4 and included below.

Actual emissions from most sources on Simple permits are a small percentage of the Generic PSELs. If the owner or operator chooses to be permitted at its capacity, DEQ does not anticipate that many sources will be required to submit permit modifications to increase their emissions.

Changing Permit Type

Sources that are required or request to switch permit type may have to pay the initial permitting fees that are contained in OAR 340-216-8020 Table 2, Part 1. The fee depends on the existing permit type and the type of permit that the source is switching to. The permit hierarchy from low to high is: Basic, General, Simple, Standard, and Title V. Sources that switch to a higher-level permit will be charged the full application fee. Sources changing from a Title V permit to a Standard or Simple permit will also be charged the full application fee. Sources that change from a higher fee level permit to a lower fee level permit, that switch from a Title V permit to a General or Basic permit, or that switch from a Basic permit to a General permit are not required to pay an initial application fee. Annual fees will be adjusted during annual invoicing.

For either a permit modification application or an application for a new type of permit, the source may need to hire a consultant at a rate of $200/hour to $300/hour to prepare the application, incurring further fees. The largest fee increase would be for a source on a General permit required to obtain a Simple or Standard permit. There is much more detail in a Simple or Standard permit that would require more work to prepare the application.

OAR 340-216-8020
Table 2
Air Contaminant Discharge Permits

Part 1. Initial Permitting Application Fees: (in addition to first annual fee)	
Short Term Activity ACDP	$4,500.00
Basic ACDP	$180.00
Assignment to General ACDP [1]	$1,800.00
Simple ACDP	$9,000.00
Construction ACDP	$14,400.00
Standard ACDP	$18,000.00
Standard ACDP (Major NSR or Type A State NSR)	$63,000.00

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 4. Specific Activity Fees:		
Notice of Intent to Construct Type 2[1]		$720.00
Permit Modification	(A) Non-Technical[2]	$432.00
	(B) Basic Technical	$540.00
	(C) Simple Technical	$1,800.00
	(D) ModerateTechnical	$9,000.00
	(E) ComplexTechnical	$18,000.00
Major NSR or Type A State NSR Permit Modification		$63,000.00
Modeling Review (outside Major NSR or Type A State NSR)		$9,000.00
Public Hearing at Source's Request		$3,600.00

1. The Type 2 Notice of Intent to Construct does not apply to existing Basic ACDP or General ACDP sources.

2. 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) if DEQ receives both forms at the same time.[7]
3. 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.

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

ORS 183.336 - Cost of Compliance for Small Businesses

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

Based on existing permittee's self-reporting on the number of employees, these proposed rules could affect approximately 931 small businesses.

- Basic ACDP: 140
- General ACDP: 724
- Simple ACDP: 48
- Standard ACDP: 19

These businesses include asphalt plants, auto body shops, chromium electroplaters, grain elevators, lumber mills, metal fabricators, metal foundries, and surface coaters.

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

The proposed rule changes may affect reporting, recordkeeping and other administrative activities if these businesses were required to apply for permit modifications. There would be fewer administrative activities if the small business did not have to renew their Simple permit as often, but the same amount of reporting and recordkeeping would be required to verify compliance with the permit. In addition, owners or operators of these businesses will not be required to submit paper copies of applications, which would be a cost savings.

[7] The footnote for gasoline dispensing facilities will be deleted. Under the transition to the Environmental Data Management System (called Your DEQ Online), it cannot accommodate partial air quality fees going to another program (underground storage tanks) so this footnote must be removed.

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

Equipment costs may increase if a business is required to install pollution control equipment because of potential exceedances of the National Ambient Air Quality Standards. Depending on the size and nature of a small business's operation, pollution control costs could be much less than, or in some cases the same as, the cost ranges for different types of pollution control equipment found in Table 1 above.

Mitigation measures for small businesses

Mitigation measures include:

- Extending permit terms for Simple permits, so small businesses with these types of permits will not need to expend the time to file permit renewal applications as often;
- Permitting small businesses at their capacity to emit to minimize the number of permit modifications that may be required;
- Offering technical assistance to small businesses if they are required to perform ambient air quality analyses so they do not have to pay consultant fees; and
- Providing more types of General permits if small businesses are of the same industry type.

d. How DEQ involved small businesses in developing this proposed rule

DEQ notified small businesses during rule development by GovDelivery, announcements on the DEQ website, and through advisory committee meetings. Small business representatives were on the Rules Advisory Committee during rule development. At the onset of the public comment period, DEQ notified small businesses by GovDelivery and notices in the Secretary of State Bulletin.

Impacts on the public

The rulemaking does not impose any mandatory requirements for the public and does not impose any direct compliance costs on the public. DEQ addresses the potential for the proposed rule changes to increase the cost of building materials in the Housing Cost section of this document.

Positive impacts on the public

Elimination of Generic Plant Site Emission Limits

Permitting sources at capacity or potential to emit, rather than assigning sources Generic PSELs:

- Creates permits that more accurately reflect actual emissions;
- Avoids over-allocation of air resources;
- Provides transparency for communities; and
- Allows more opportunities to review air quality modeling of emission increases to ensure compliance with short-term National Ambient Air Quality Standards for some permit modifications.

Studies consistently find that air pollution has substantial negative impacts on the U.S.

economy. For example, a 2019 study found that air pollution costs the United States about five percent of its gross domestic product.[8] It also found that, while air pollution overall is on the decline, the cost of air pollution from the manufacturing sector—which includes Oregon stationary sources affected by the proposed rule changes—remains high, costing the U.S. nearly $100 billion in 2014.[9]

The public could experience health benefits for the following reasons:

- An air pollution control device that may be required by the proposed changes for potential exceedances of National Ambient Air Quality Standards would reduce air pollution.
- Air pollution will be reduced because a business will not be allowed to operate without operation of their air pollution control device for 48 hours under the proposed rule changes to the excess emission rules.

DEQ expects the proposed rule changes to have indirect, broad and positive fiscal effects on the public, particularly people living or working near regulated facilities, through community health improvement and reduced health care costs if these facilities will be required to reduce emissions. Table 2 below (Health Effects « CAPCOA – California Air Pollution Control Officers Association) shows the health effects from criteria pollutants emissions that may be reduced as a result of this rulemaking.

Table 2 CRITERIA AIR POLLUTANTS

Pollutant	Major Man-Made Sources	Human Health & Welfare Effects	Control Methods
Particulate Matter Airborne solid particle and liquid particles grouped into 2 categories	Power plants, steel mills, chemical plants, unpaved roads and parking lots, wood-burning stoves and fireplaces, automobiles and others.	Can get deep into your lungs or even enter your blood stream, and cause serious health problems; Increased respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing; aggravated asthma; development of chronic bronchitis; irregular heartbeat; nonfatal heart attacks; and premature death in people with heart or lung disease. Impairs visibility (haze).	Pollution control equipment and reduction of fuel combustion
"Coarse Particles" from 2.5 to 10 microns in diameter			
"Fine Particles" smaller than 2.5 microns in diameter			
⋮			
Ozone (Smog) A colorless or bluish gas	Formed by a chemical reaction between volatile organic compounds (VOC) and nitrous oxides (NO_x) in the presence of sunlight. Motor vehicle exhaust industrial emissions, gasoline	Irritates and causes inflammation of the mucous membranes and lung airways; causes wheezing, coughing and pain when inhaling deeply; decreases lung capacity; aggravates lung and heart problems. Damages plants;	Pollution control equipment; reducing NO_x emissions from power plants and industrial combustion sources; introducing low-emission cars and trucks; using

[8] Ellis Robinson, *How Much Does Air Pollution Cost the U.S.?* Stanford Earth Matters (Sept. 19, 2019), https://earth.stanford.edu/news/how-much-does-air-pollution-cost-us#gs.zh6ypm (citing Tschofen, Azevedo, and Muller, *Fine Particulate Matter Damages and Value Added in the U.S. Economy*, Proceedings of the National Academy of Sciences (Sept. 9, 2019), https://doi.org/10.1073/pnas.1905030116).
[9] *Id.*

Pollutant	Major Man-Made Sources	Human Health & Welfare Effects	Control Methods
	storage and transport, solvents, paints and landfills.	reduces crop yield. Damages rubber, some textiles and dyes.	"cleaner" gasoline; use of low-VOC solvents.
Sulfur Dioxide A colorless, nonflammable gas	Formed when fuel containing sulfur, such as coal and oil, is burned; when gasoline is extracted from oil; or when metal is extracted from ore. Examples are petroleum refineries, cement manufacturing, metal processing facilities, locomotives, large ships, and fuel combustion in diesel engines.	Respiratory irritant. Aggravates lung and heart problems. In the presence of moisture and oxygen, sulfur dioxide converts to sulfuric acid which can damage marble, iron and steel; damage crops and natural vegetation. Impairs visibility. Precursor to acid rain.	Use of low-sulfur fuels, energy conservation (reduces power plant emissions), and pollution control equipment. Ultra Low Sulfur Diesel is being phased in during 2006 and will be mandatory in 2007.
Carbon Monoxide An odorless, colorless gas.	Formed when carbon in fuel is not burned completely;' a component of motor vehicle exhaust.	Reduces the ability of blood to deliver oxygen to vital tissues, effecting the cardiovascular and nervous system. Impairs vision, causes dizziness, and can lead to unconsciousness or death.	Transportation planning, vehicle emission testing and reduction, efficient combustion techniques, and energy conservation.
Nitrogen Dioxide A reddish-brown gas	Fuel combustion in motor vehicles and industrial sources. Motor vehicles; electric utilities, and other sources that burn fuel.	Respiratory irritant; aggravates lung and heart problems. Precursor to ozone and acid rain. Contributes to global warming, and nutrient overloading which deteriorates water quality. Causes brown discoloration of the atmosphere.	Exhaust gas recirculation in motor vehicles; reduction of combustion temperatures in industrial sources; energy conservation pollution control equipment.

Decades of research have shown that air pollutants such as ozone and particulate matter increase the amount and seriousness of lung and heart disease and other health problems. More investigation is needed to further understand the role poor air quality plays in causing detrimental effects to health and increased disease, especially in vulnerable populations. Children, the elderly, and people living in areas with high levels of air pollution are especially susceptible. (Research on Health Effects from Air Pollution | US EPA)

DEQ is not aware of calculated public health costs saved from this rulemaking but refers to information available through the Oregon Health Authority that estimates the health burden costs from diseases exacerbated by air pollution (Table 3). According to OHA 2017 data and analysis, lower respiratory disease is the fifth leading cause of death for Oregonians.[10] A comprehensive 2002 study assessed the contribution of pollution to disease and found that 10-30 percent of asthma is attributable to outdoor air pollution (including both industrial and

[10] https://www.oregon.gov/OHA/PH/ABOUT/Documents/indicators/leadingcausesofdeath.pdf

non-industrial sources). In the early 2000s, the yearly fraction of asthma cases that could be attributed to environmental factors cost the U.S. between $0.7 and $2.3 billion. These cost estimates account for direct medical costs and lost productivity due to asthma-related premature deaths.[11]

Table 3
2020 Public Health Costs from Diseases Exacerbated by Air Pollution[12]

Health Outcome	Description	Hospitalization Costs in Oregon	Emergency Department Visits in Oregon
Asthma	Estimates for adults and children	$7 million	$10 million
Cardiovascular disease	Estimates for adults only - hypertension, stroke, coronary heart disease, congestive heart failure, other	$971 million	$101 million

Information needed to quantify economic impact of health improvements

Oregon currently lacks the data necessary to quantify total potential health cost savings from environmental rules because of the lack of information about how many people are exposed to specific concentrations of industrial and commercial air contaminant emissions and the relative actual contribution of air contaminants to disease. Just as a lack of information about individual facility impacts and emission reduction outcomes prevent DEQ from quantifying specific fiscal impacts to businesses, a lack of health information also prevents DEQ from quantifying specific positive fiscal impacts from potential emission reductions. The health impact of reducing emissions depends on the specific chemicals that are being reduced, the health risks those chemicals influence, the relationship between exposure and health, and the extent to which emissions are reduced. Defining the economic impact of improved health further requires knowledge of the portion of cases that are related to air contaminant exposures, prevalence of health outcomes in the state, and the cost of medical treatment for each case.

Negative impacts on the public

The proposed rule changes could have negative economic effects on the public if facilities providing jobs and contributing to local economies were to curtail production or close in response to regulatory requirements. DEQ recognizes that employment plays a key role in public health, and that negative economic impacts through job loss could occur despite

[11] Landrigan PJ, Schechter CB, Lipton JM, Fahs MC, Schwartz J. Environmental pollutants and disease in American children: estimates of morbidity, mortality, and costs for lead poisoning, asthma, cancer, and developmental disabilities. Environ Health Perspect. 2002 Jul;110(7):721-8.

[12] https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/CHRONICDISEASE/DATAREPORTS/Pages/Healthcare.aspx. OHA Chronic Health Disease Data includes only hospitalization costs and emergency department visit costs.

proposed mitigation measures to allow business flexibility and decrease the chances of business closures or employee layoffs in direct response to regulations.

The proposed rule changes could affect the public directly if businesses change the price of goods and services to offset any increased or decreased costs to comply with the proposed rule changes. DEQ expects any such price increases to be small but lacks available information to estimate potential increases accurately.

Impacts on the environmental services sector

The direct cost of complying with regulations can result in increased employment in the environmental services sector. For example, an environmental regulation could mean more jobs for those engaged in environmental consulting and pollution abatement. Further, it is possible that regulations may produce more labor-intensive production processes. Studies of national air quality regulations have shown positive effects on overall economic health. The Clean Air Act's public health safeguards encourage technology investments that can have positive economic effects on the public.

General impacts to businesses from environmental regulations

Although in the short-term, new environmental regulations can have some positive and negative impacts on employment in different sectors, studies indicate that those impacts are limited and that the overall effect of environmental regulations on reported job shift events are extremely minor compared to other factors, such as overall economic growth, business cycles, and changes in technology.[13]

A peer-reviewed study by economists at Resources for the Future, a nonpartisan Washington, D.C. think tank, examined the impact of environmental compliance costs on employment in four regulated industries (pulp and paper, refining, iron and steel, and plastics). They concluded that increased environmental spending generally does not cause a significant change in employment.[14] Another peer-reviewed study published in the Journal of Public Economics found no evidence that stringent local air quality regulation substantially reduced employment in the Los Angeles basin over a 13-year period of "sharply increased" regulation.

Documents relied on for fiscal and economic impact

Document title	Document location
DEQ TRAACS air quality database reports	DEQ Headquarters Office 700 NE Multnomah St. Suite 600 Portland, OR 97232
DEQ Fiscal Impact Statement, Cleaner Air Oregon Rulemaking	https://www.oregon.gov/deq/rulemaking/Documents/AQPermits2022CAOfis.pdf

[13] http://econweb.ucsd.edu/~elib/berman_bui2001
[14] https://www.epa.gov/clean-air-act-overview/clean-air-act-and-economy#_edn10

Document title	Document location
DEQ Fiscal Impact Statement, Regional Haze Rulemaking	https://www.oregon.gov/deq/rulemaking/Documents/AQPermits2022RHfis.pdf
Health Effects « CAPCOA – California Air Pollution Control Officers Association	http://www.capcoa.org/health-effects/#:~:text=Health%20Effects%20%20%20Pollutant%20%20%20Symbol,and%20reductio%20...%20%208%20more%20rows%20
Research on Health Effects from Air Pollution	https://www.epa.gov/air-research/research-health-effects-air-pollution
Oregon Health Authority. Leading Causes of Death.	https://www.oregon.gov/OHA/PH/ABOUT/Documents/indicators/leadingcausesofdeath.pdf
Environmental pollutants and disease in American children: estimates of morbidity, mortality, and costs for lead poisoning, asthma, cancer, and developmental disabilities. Landrigan PJ, Schechter CB, Lipton JM, Fahs MC, Schwartz J.	J. Environ Health Perspect. 2002 July; 110(7):721-8.
OHA Chronic Health Disease Data	https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/CHRONICDISEASE/DATAREPORTS/Pages/Healthcare.aspx.
Environmental regulation and labor demand: evidence from the South Coast Air Basin. Eli Berman, Linda T.M. Bui	PII: S0047-2727(99)00101-2 (ucsd.edu)
Morgenstern, R. D., W. A. Pizer, and J. S. Shih. 2002, Jobs versus the Environment: An Industry-Level Perspective.	Journal of Environmental Economics and Management 43(3):412-436.
Ellis Robinson, *How Much Does Air Pollution Cost the U.S.?*	Stanford Earth Matters (Sept. 19, 2019) https://earth.stanford.edu/news/how-much-does-air-pollution-cost-us#gs.zh6ypm
Tschofen, Azevedo, and Muller, *Fine Particulate Matter Damages and Value Added in the U.S. Economy*	Proceedings of the National Academy of Sciences (Sept. 9, 2019) https://doi.org/10.1073/pnas.1905030116).
Meltzer, Parker, Lewis & DiNatal, University of Oregon, 2016. *Cost Components of Housing*.	https://www.oregon.gov/lcd/UP/Documents/UO-Cost_Components.pdf

Advisory committee fiscal review

DEQ appointed an advisory committee for both the rulemaking and the fiscal impact statement. The advisory committee met on May 2, 2022, to discuss the fiscal impact statement. DEQ made changes to the fiscal impact statement based on their comments.

As ORS 183.335 requires, DEQ asked for the committee's recommendations on:

- Whether the proposed rule changes would have a fiscal impact:
  - Most of the RAC members agreed that the rules would have a fiscal impact. Non-industry representatives shared they did not feel qualified or in the best position to assess or communicate from an industry perspective on cost impacts to businesses.
  - A member noted there would be significant fiscal impact to both small and large businesses.
  - Many members agreed that a positive fiscal impact would be reduced emissions and subsequent improved public health benefits to impacted communities.
  - A member commented for current small businesses that have a general or simple permit, replacing the Generic Plant Site Emission Limits (PSELs) with capacity may cause them to submit a new permit application for a permit, to do modeling, and perform a Best Available Technology[15] (BAT) analysis they did not need. The member expressed concern around the removal of Generic PSELs and the possible significant costs to businesses. The member requested DEQ to look more closely at the impacts to small businesses.
  - Another member emphasized the fiscal assessment does not fully consider the increase to costs it would take to maintain a permit issuance service level. In addition to offering modeling support for small businesses, DEQ may have increased permit writing work from the increased number of permit modifications and setting site specific PSELs for all the permits. They added that getting rid of Generic PSELs will require more work on a permit-to-permit basis and there will be a lot of back and forth between the source and permit writers. The member concluded by noting how important it is for DEQ to anticipate how much time this will take of technical permit staff.
  - A member commented DEQ is not prohibited from assessing the financial benefits of improving air quality for the good of public health. They added the benefit of removing Generic PSELs is to bring specificity in, and both DEQ and sources need to work with the costs associated with the goal of air regulation, which is to improve the quality of air.
  - A member noted the permit application will now include a NAAQS and BAT analysis and questioned whether the permit application fee includes these additional costs. They emphasized that it can be costly for businesses to hire on consultants to conduct analysis.

- The extent of the fiscal impact:
  - A member noted there would be significant impact on small businesses whether its due to the cost of consulting, preparing applications, fees, or BAT analysis.
  - Another member commented that anything that changes the amount of pollution will have a fiscal impact. They added the impact on public health is a huge cost to

[15] During Rules Advisory Committee meetings, Best Available Technology (BAT) was discussed. DEQ has changed that concept to Minor Source Emission Reduction Technology (MSERT). The Minor New Source Review program that included MSERT has been omitted from this proposed rulemaking package.

taxpayers, yet the fiscal impact spends more time looking at the costs of changes to the regulated sources. They suggested DEQ have better data on these costs. The members shared the rules are an important precursor to reducing emissions, however, they wish the rules went further to guarantee reduced emissions.
    - A member commented there would be substantial impact to both small and large businesses. One major fiscal impact is the rules will delay costs because of the significant additional time required to go through basic permitting efforts. Sources may question expanding its workforce in Oregon and to increase production elsewhere. The member noted the best indicator of the health of a community is the state of the manufacturing sector, which will be directly impacted with these changes.
    - A member remarked this rulemaking will create a more transparent and health-protective permitting system in Oregon. The member added there most likely will be a learning curve and adjustment period, and this transitory phase of a new system can require more work and time.
    - Another member emphasized they do not view this as a small rulemaking, nor will the fiscal impact be minor.
    - A member noted these changes have been decades in the making and they anticipate a large fiscal impact.

- Whether the proposed rule changes would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 to reduce that impact:
    - Several RAC members opted out in providing a response to this question.
    - Some members agreed that the rules do have the potential to have significant adverse impact on both small and large businesses.
    - A member shared one way adverse impact can be mitigated is for DEQ to clarify when modification and fees will be applied and in what circumstances.
    - Another member commented that few things can be done to mitigate for adverse impacts. They agreed DEQ must be clear on the fees not charged to small businesses, so they don't get charged modeling fees or BAT assessment fees.
    - A couple of members agreed one way to mitigate adverse impact is to not have BAT analysis apply to a small source whose emissions are less than the Significant Emission Rate. If the small sources are required to do a BAT analysis, provide them with additional time to complete this task
    - Regarding how to mitigate adverse impacts, a member shared modeling support from DEQ can go a long way in terms of costs for small businesses.

Impacts on Racial Equity

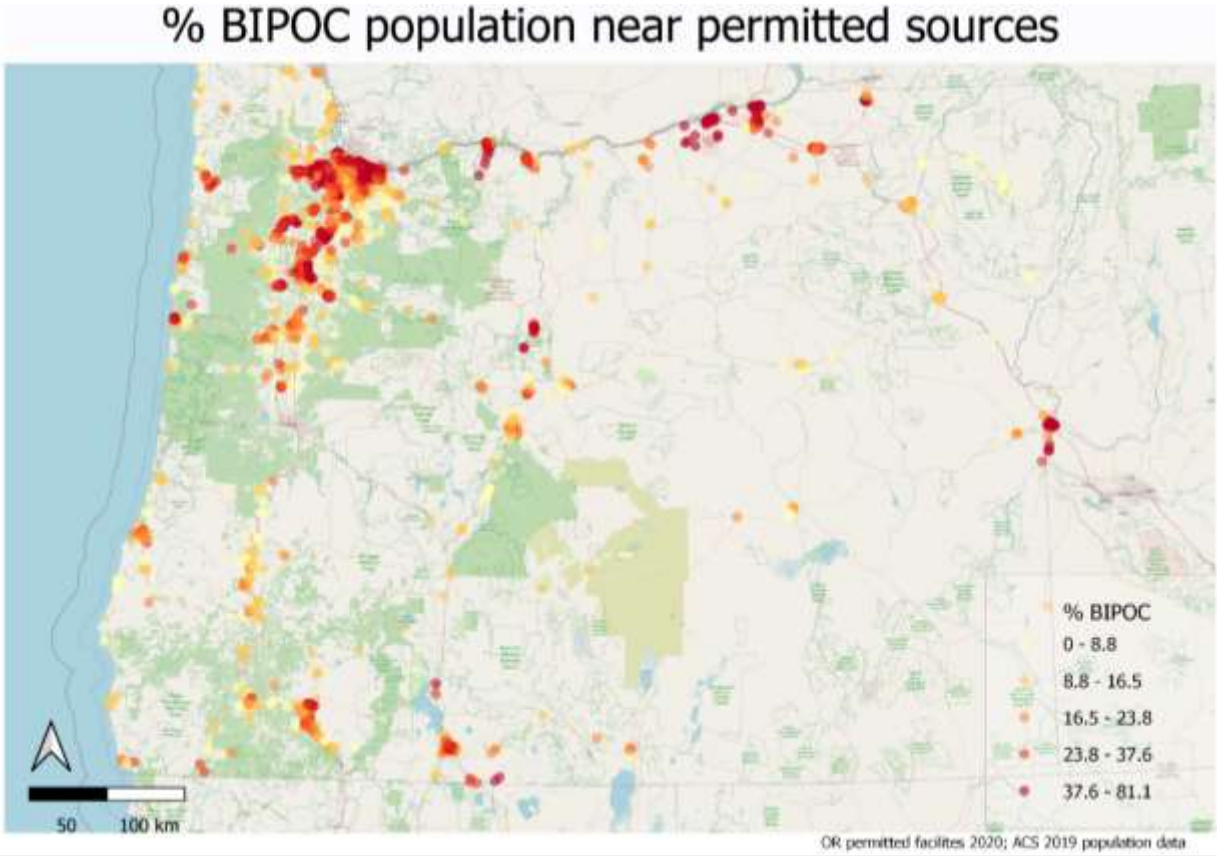
As required under HB 2993, Section 2, DEQ reviewed the proposed rules for potential impacts on racial equity within Oregon. DEQ expects this proposed rulemaking may have a slight favorable impact on racial equity. Adoption of the proposed rulemaking will impact racial equity and environmental justice by providing more precise permit limits that more accurately reflect facility operation, rather than generic limits, giving the public more exact information. The proposed rulemaking could also potentially require emission reductions if the National Ambient Air Quality Standards are exceeded, either through the installation of pollution control equipment or through federally enforceable limits on emissions. This would favorably impact those living close by to a facility, which often include Black, Indigenous, and People of Color communities.

Because DEQ does not know which sources may be required to install pollution control devices, DEQ cannot identify whether members of any racial groups living nearby are likely to be most concerned and affected by the issues addressed in the rule. As mentioned above, shut down of a business that cannot afford to comply with the proposed rules would be an unintended adverse consequence on racial equity if Black, Indigenous, and People of Color worked for that business. Conversely, decreased emissions of pollutants from facilities in proximity to such communities would be a positive consequence on racial equity.

This proposed rulemaking is not expected to impact one group of people differently than others because potential emission reductions could be realized anywhere in the state, depending on the business and its emissions.

The following map shows areas in the state where air quality permitted sources are located within one kilometer of populations of people who are Black, Indigenous, and People of Color.[16] Many permitted sources are located in areas with more than 37 percent of people reporting demographic information including them as Black, Indigenous or People of Color. The average BIPOC population in the state is 25 percent. On the included map, the dark red and dark orange circles both indicate values above this state average.

[16] Sources in Lane County are not included in the map.


% BIPOC population near permitted sources
% BIPOC
0 - 8.8
8.8 - 16.5
16.5 - 23.8
23.8 - 37.6
37.6 - 81.1
50
100 km
OR permitted facilites 2020; ACS 2019 population data

Housing Cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rule changes would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. A memorandum[17] pertaining to a study conducted by the University of Oregon to support Oregon Department of Land Conservation and Development rulemaking describes the major factors influencing the cost of residential housing construction. Cost components include land, material and labor and regulatory costs such as permits, compliance with zoning requirements and system development charges.

DEQ acknowledges the proposed rule changes have the potential to affect housing development costs because some of the large businesses regulated by the proposed rule changes are in the lumber products industry or otherwise produce building materials. DEQ would not expect any increase in regulatory compliance costs for the lumber or building materials industry, over current compliance costs, to be significant enough to affect the cost of building materials. DEQ does not expect the proposed rule changes to have any effect on the major cost components of residential construction such as cost of land, labor, or permitting or zoning regulations.

[17] University of Oregon, 2016. Cost Components of Housing. https://www.oregon.gov/lcd/UP/Documents/UO-Cost_Components.pdf accessed on 05/07/21.

Federal Relationship

ORS 183.332, ORS 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so. This section complies with those statutes and rules to clearly identify the relationship between the proposed rule changes and applicable federal requirements.

The following proposed rules would adopt federal requirements.

- Add 1-bromopropane (1-BP) to the state list of Hazardous Air Pollutants to make it consistent with its listing under Section 112 of the Clean Air Act, as recently added by the EPA.

The following proposed rule changes are not different from or in addition to federal requirements:

- Prohibit issuance of construction approvals to all sources and permits to any new or modified source that will cause an exceedance of a National Ambient Air Quality Standard outside of its property boundary.
- Clarify DEQ's ability to require and use modeling in addition to monitoring (by DEQ or sources) for NAAQS exceedance verification.
- Clarify that permittees must comply with all conditions in their permit.
- Require more complete applications at permit renewal to ensure DEQ staff have sufficient information to process the renewal applications.
- Require additional information to be submitted by a certain date with an opportunity to request more time if needed rather than allowing 90 days for all submittals.
- Require that sources must construct or modify in accordance with approved plans submitted with their applications.
- Eliminate provisions that currently allow sources to operate without using pollution control devices for 48-hours under the excess emission rules.

The following categories of DEQ's proposed changes contain rules that are "in addition to federal requirements."

Eliminate Generic Plant Site Emission Limits, which currently often allow greater emissions than a facility is physically capable of emitting.	
The proposed change to the use of Generic PSEL gives DEQ the option to permit at capacity or potential to emit instead of Generic PSELs. Permitting at capacity or potential to emit instead of Generic PSELs creates permits that more accurately reflect actual emissions.	
In addition to federal requirements?	**What alternatives did DEQ consider, if any?**
EPA's Major New Source Review regulations provide the option to use Plantwide Applicability Limits that are similar to Plant Site Emission Limits. EPA	DEQ considered keeping Generic PSELs for sources on Basic and General permits. DEQ did not pursue this alternative because many of these permits do not contain any

regulations for minor stationary sources do not include Plant Site Emission Limits. EPA guidance provides flexibility to states to design programs to regulate the operation of minor sources.	PSELs at all. For those General permits that have Generic PSELs, DEQ will calculate source specific PSELs for the highest emitting source on that General permit and use them for all sources on that General permit.
Clarify and update the Notice of Intent to Construct rules.	
The proposed rule changes will promote consistent construction approval through the Notice of Intent to Construct/Notice of Approval (NC/NOA) process for all sources, both sources permitted through Air Contaminant Discharge Permits (ACDPs) or Title V permits, and also for unpermitted sources. Several resource intensive issues have been identified with the NC rules and how they have been interpreted or implemented. The main issue is that the rules are not clear on what type of construction/modification qualifies for a Type 1 or a Type 2 NC.	
In addition to federal requirements?	**What alternatives did DEQ consider, if any?**
Federal law requires states to have both a major and a minor New Source Review program. The requirements for the federal major New Source Review program are very prescriptive. States have more flexibility in designing a state minor New Source Review program if the state demonstrates that it will protect air quality. The requirements for a state minor New Source Review program are not included in EPA's rules.	The Notice of Intent to Construct/Notice of Approval rules, along with the Air Contaminant Discharge Permit Program, are parts of DEQ's minor New Source Review program. DEQ considered not making the proposed rule changes but DEQ has identified circumstances where the interpretation and implementation of NC rules have been inconsistent or need clarification. Consistent construction approval through the Notice of Intent to Construct/Notice of Approval process for sources permitted through Air Contaminant Discharge Permits and Title V permits, as well as new sources not otherwise required to obtain a permit is an important part of DEQ's minor New Source Review program.
Change permit type if sources are on the wrong permit.	
DEQ proposes to use the existing criteria to evaluate whether a source should be on a Simple or a Standard permit for all permit types: General, Basic, Simple or Standard. This would also ensure that the source receives the correct amount of oversight, both when the permit is written and when the source is inspected.	
In addition to federal requirements?	**What alternatives did DEQ consider, if any?**
EPA regulations require state pre-construction permitting programs to assure that national ambient air quality standards	DEQ considered not clarifying the rules that allow moving sources to a different type of permit. DEQ wants to permit

are achieved. EPA guidance provides flexibility to states to design programs to regulate the operation of minor sources.	sources on the correct type of permit to ensure that the correct amount of oversight is provided for that source. Without this clarification, a source could stay on a Standard permit when a Simple permit may be more appropriate. The difference in fees between a Standard and a Simple permit is significant.
Clarify that an air quality analysis is required in applications for new sources and when requested by DEQ, for renewal and modification applications to ensure compliance with the National Ambient Air Quality Standards.	
The authority to require an air quality analysis is included in the existing rules. The existing rules do not contain the requirement to submit an air quality analysis with a permit application.	
In addition to federal requirements?	**What alternatives did DEQ consider, if any?**
EPA regulations require state pre-construction permitting programs to include procedures that address air quality data and air quality modeling used to meet Clean Air Act permitting requirements. EPA guidance provides flexibility to states to design programs to regulate the operation of minor sources.	DEQ considered not clarifying that an air quality analysis is required in applications. Without this clarification, applicants may not know that an air quality analysis is required and therefore, may submit an incomplete application, delaying issuance of the permit. If the source is on a tight timeline for their permit, this delay could be avoided with this clarification. In addition, this clarification will help DEQ demonstrate that its permitting program is protective of the National Ambient Air Quality Standards.
Extend permit terms for Simple permits but allow for needed permit modifications. This will better allocate DEQ resources to work on more significant permitting issues.	
The proposed rule changes provide extended permit terms from 5 years to 10 years for Simple permits to streamline the permitting process but allow for permit modifications when needed. In some cases, permits must be updated because of changes proposed by the source or because rules have changed. DEQ must have the ability to change the permit for these reasons.	
In addition to federal requirements?	**What alternatives did DEQ consider, if any?**
EPA regulations require state pre-construction permitting programs to include	DEQ considered eliminating expiration dates for Basic, General and Simple

procedures that address air quality data and air quality modeling used to meet Clean Air Act permitting requirements. EPA guidance provides flexibility to states to design programs to regulate the operation of minor sources.	permits. DEQ did not pursue this alternative because of input from the Rules Advisory Committee.
Expand the use of short-term activity permits for temporary operations in addition to unexpected and emergency activities.	
Short-term activity permits are currently allowed for only unexpected and emergency activities. These permits expire in 60 days and are not allowed to be renewed. Currently DEQ allows these types of planned operations under a Mutual Agreement and Order, a tool under DEQ's formal enforcement actions. These activities are not allowed under existing permits but are not technically considered enforcement actions because the business asks permission to perform these types of activities. In addition, it is resource intensive for DEQ to develop Mutual Agreement and Orders.	
In addition to federal requirements?	**What alternatives did DEQ consider, if any?**
EPA does not issue short-term activity permits. State permitting and enforcement programs under the SIP follow guidance to states addressing excess emissions during periods of startup, shutdown, and malfunction.	DEQ considered not expanding the use of short-term activity permits but did not pursue this alternative. The proposed changes provide flexibility for both businesses and DEQ by providing a mechanism to allow short-term temporary operations that are not covered by the permit.
Provide a petition process to allow requests that additional industrial categories be approved to have general permits, rather than source-specific permits.	
In addition to federal requirements?	**What alternatives did DEQ consider, if any?**
EPA does not issue air quality general permits.	DEQ considered not allowing a petition process to allow for additional industrial categories for general permits. General permits were created to achieve efficiency in permit processing and to facilitate DEQ's implementation of federal standards that apply to area sources of hazardous air pollutants (National Emission Standards for Hazardous Air Pollutants). This allows a source to avoid the higher cost of a Simple or Standard permit yet allows for DEQ oversight.

Land Use

Considerations

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

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

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

DEQ determined whether the proposed rule changes involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

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

Statewide goals also specifically reference the following DEQ programs:

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

Determination

DEQ determined that the proposed rule changes in the following rules divisions, listed under the Rules affected, authorities, supporting documents section above, affect programs or activities that the DEQ State Agency Coordination Program considers a land-use program.

- OAR 340-210 Source Notification Requirements
- OAR 340-216 Air Contaminant Discharge Permits
- OAR 340-218 Oregon Title V Operating Permits
- OAR 340-224 New Source Review

The air quality permit programs require that a new business provide a Land Use Compatibility Statement from local government when applying for a permit. This assures

that the business has an approved use for the property where it is located. Existing permittees have provided Land Use Compatibility Statements, which are on file with DEQ. The proposed rule changes include a change to land use procedures in the air quality permitting program. The proposed change requires an owner or operator to provide DEQ with its own analysis to demonstrate that an application or construction notice complies with all applicable statewide planning goals if the local planning jurisdiction declines to provide a LUCS determination in response to a request for a LUCS. This situation may arise on lands owned by the federal government where local planning agencies do not have jurisdiction.

DEQ's statewide goal compliance and local plan compatibility procedures adequately cover the proposed rule changes.

- OAR 340-018-0040(1) - compliance with statewide planning goals achieved by ensuring compatibility with acknowledged comprehensive plans
- OAR 340-018-0050(2)(a) - ensuring compatibility with acknowledged comprehensive plans may be accomplished through a Land Use Compatibility Statement.

EQC Prior Involvement

DEQ shared information about this rulemaking with the EQC through an informational item on the Sept. 22, 2022, EQC agenda (Item C).

Advisory Committee

Background

DEQ convened the Air Quality Permit Updates 2022 rulemaking and fiscal advisory committee. The committee included representatives from an array of industry representatives and met five times. The committee's web page is located at: Department of Environmental Quality : Air Quality Permitting Updates 2022 : Rulemaking at DEQ : State of Oregon

In accordance with Oregon HB 2993, Section 1, the rulemaking advisory committee and fiscal impact advisory committee for this proposed rulemaking represent the interests of persons and communities likely to be affected by the proposed rule.

The committee members were:

Name	Affiliation	Representing	Racial Groups Represented
Lisa Arkin	Beyond Toxics	Environmental Justice communities (non-PDX areas)	Latinx/Black
Brian Brazil	Northwest Pulp and Paper Association	Regulated industry association	NA
Nadège Dubuisson	Multnomah County Public Health	Public health expertise	People of Color
Jeff Hunter Ellen Porter (alternate)	Perkins Coie, LLP (alternate: LMI Environmental)	Attorney typically representing industry	NA
Sergio Lopez	Verde	Environmental Justice communities (PDX area)	People of Color
David Monro	Portland General Electric	Regulated entity (large business)	NA
Mary Peveto	Neighbors for Clean Air	Air quality advocacy (statewide)	NA
Pamela Pulliam	Lonza	Regulated entity (small business)	NA
Jonah Sandford	Northwest Environmental Defense Center	Attorney typically representing community groups	NA
Molly Tack-Hooper Ashley Bennett (alternate)	Earthjustice	Attorney typically representing community groups	NA
Tom Wood Geoff Tichenor	Oregon Business and Industry	Regulated industry associations	NA

Name	Affiliation	Representing	Racial Groups Represented
(alternate)			
Monica Wright Rodrigo González-Abraham (alternate)	Jacobs Engineering	Air quality consultant	NA

Public Engagement

Public notice

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

- On May 24, 2022, filing notice with the Oregon Secretary of State for publication in the July 2022 Oregon Bulletin;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: Air Quality Permitting Updates 2022;
- Emailing approximately 22,364 interested parties on the following DEQ lists through GovDelivery:
    - Rulemaking
    - DEQ Public Notices
    - Air Quality Permits
- Emailing the following key legislators required under ORS 183.335:
    - Speaker Rayfield
    - Representative Marsh
    - Senate President Courtney
    - Senator Lieber
- Emailing advisory committee members,
- Posting on the DEQ event calendar: DEQ Calendar

Public hearings

DEQ held one virtual public hearing for the proposed rulemaking and received two comments at the hearing. Later sections of this document include a summary of the comments received during the public hearing and during the comment period and DEQ's responses. The original comments are on file with DEQ.

Presiding Officer's Record

Date	June 27, 2022
Place	Zoom Virtual Public Hearing Operated from DEQ Portland offices: 700 NE Multnomah St., Suite 600, Portland, Oregon, Conference Room 610
Start Time	3 p.m.
End Time	3:41 p.m.
Presiding Officer	Dan DeFehr

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

webpage, which provides access to sign up for GovDelivery email notice. As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice prior to accepting public comment.

Summary of Public Comments and DEQ Responses

Public comment period

DEQ accepted public comment on the proposed rulemaking from May 27, 2021, until 4 p.m. on Aug. 1, 2022. DEQ granted a three week extension because of a request for extension. Two comments were received during the public hearing on June 27, 2021. DEQ received comments from 22 individuals and organizations during the public notice period. One comment was submitted after the deadline for which DEQ could not respond.

For public comments received by the close of the public comment period, Attachment C presents comment summaries with cross references to the comment number. Attachment C organizes the comment document into 99 categories. DEQ's response follows the comment summary. Original comments are on file with DEQ and Attachment D to this staff report contains longer, more detailed comment letters in their entirety. DEQ considered and responded to all comments described in the response sections below. DEQ changed some of the proposed rules in response to comments as described in DEQ's responses.

Comments received by close of public comment period

The table below lists people and organizations that submitted public comments about the proposed rules by the deadline.

#	First Name	Last Name	Organization
1	Gary	Andes	
2	John	Altshuler	
3	David	Stone	
4	Max	Hueftle	Lane Regional Air Pollution Agency
5	Caroline	Skinner	
6	Val	Bettencourt	
7	Kirsten	Adams	Associated General Contractors Oregon-Columbia Chapter
8	Tyler	Ernst	Oregon Forest Industries Council
9	Nadège	Dubuisson	Multnomah County Health Department
10	Patricia	Jacobs	Oregon DEQ
11	Kurt	Lumpkin	Biomass One
12	Melissa	Hillman	Trinity Consultants

#	First Name	Last Name	Organization
13	Yvonne	Couts	Weyerhaeuser NR Company
14	Jason	Young	Arauco North America, Inc. - Duraflake Particleboard
15	Debbie	Silva	EVRAZ Oregon Steel
16	Jeffrey	Hunter	Perkins Coie
17	Josh	Levi	Data Center Coalition
18	Kristana	Becherer	Roseburg Forest Products
19	Jackie	White	NWPPA
20	Tom	Wood	Stoel Rives
21	Jenny	Dresler	Oregon Manufacturers and Commerce
22	Molly	Tack-Hooper	Earth Justice
23	Timothy	Burke	

Implementation

Notification

The proposed rules would become effective on March 1, 2023. DEQ would notify affected parties by:

- Emailing interested parties on the Rulemaking, DEQ Public Notices, and Air Quality Permits GovDelivery lists;
- Emailing all commenters on the proposed rulemaking; and
- Emailing DEQ's regional air quality managers and staff.

Compliance and enforcement

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

DEQ will remove Generic Plant Site Emission Limits from permits at the first permit renewal after the effective date of the rule adoption. DEQ will issue permits for all new sources with source specific Plant Site Emission Limits. DEQ will monitor compliance with the source specific Plant Site Emission Limits Permittees by reviewing records during onsite inspections and annual reports.

DEQ will continue to review applications submitted under the Notice of Intent to Construct rules to ensure compliance with the adopted rules. Applications submitted before the effective date of the proposed rules will be reviewed under the existing rules. DEQ will perform onsite inspections to ensure that construction or modification was done according to approved plans.

Measuring, sampling, monitoring and reporting

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

Systems

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

Training

Training for staff and the regulated community will be developed and delivered before the effective date of the proposed rules. New or amended permit templates, permit application forms, compliance reporting forms, and implementation materials will be explained in detail.

Five-Year Review

Requirement

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

Exemption from five-year rule review

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

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

Accessibility Information

You may review copies of all documents referenced in this announcement at:

Oregon Department of Environmental Quality
700 NE Multnomah St., Ste. 600
Portland, OR, 97232

To schedule a review of all websites and documents referenced in this announcement, call Jill Inahara, Portland 503-229-5001. (800-452-4011, ext. 5622 tollfree in Oregon).

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

State of Oregon Department of Environmental Quality

Air Quality Permitting Updates 2022 Rules – Edits Highlighted

Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~
Underline: New/inserted text
~~Double strikethrough~~ and underline~~: Text deleted from one location~~ and moved to another location

Division 200
GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

340-200-0020
General Air Quality Definitions

As used in OAR chapter 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 chapter 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 C.F.R. 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, exclusive of uncombined water.

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

(1034) "Air pollution control device" or "Ccontrol device" means equipment, other than inherent process equipment that is used to destroy or remove a regulated pollutant prior to discharge to the atmosphere.

(a) 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 (e.g., carbon beds, condensers);, scrubbers, (e.g., 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, at acid plants, and sulfur recovery plants;, injection systems, such as (e.g., 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).

(b)(A) 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.

(B) 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.

(110) "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.

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

(132) "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 C.F.R. 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 chapter 340, division 216, including any term or condition of any preconstruction permits issued under OAR chapter 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 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 under section 504(e) of the FCAA.

(143) “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 chapter 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.

(154) “Attainment pollutant” means a pollutant for which an area is designated an attainment or unclassified area.

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

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

(187) "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.

(198) "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.

(2019) "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.

(210) “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.

(221) "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.

(232) "Carbon dioxide equivalent" or "CO2e" means an amount of a greenhouse gas or gases expressed as the equivalent amount of carbon dioxide, and is ~~be~~ computed by multiplying the mass of each of the greenhouse gases by the global warming potential published for each gas at 40 C.F.R. 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.

(243) "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.

(254) "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.

(265) "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.

(276) "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.

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

(298) "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.

(3029) "Commission" or "EQC" means Environmental Quality Commission.

(310) "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.

(321) "Construction":

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

(b) As used in OAR chapter 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.

(332) "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.

(343) "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, found in OAR 340-200-0035, 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) NOx = 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 PM2.5 = 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 chapter 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, found in OAR 340-200-0035.

(42) “Designated area” means an area that has been designated as an attainment, unclassified, sustainment, nonattainment, reattainment, or maintenance area under OAR chapter 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(s) limitation," "emission(s) limit," ~~or~~ "~~E~~emission(s) standard~~"~~ or "~~E~~emission(s) limitation or standard" means:

(a) Except as provided in subsection (b), a requirement established by a state, local government, or ~~the~~ EPA rule; a permit condition or order, 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(s) limit, emission(s) limitation, emission(s) standard, standard of performance or means of emission(s) 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 ~~R~~reduction credit banking" means to presently reserve, subject to requirements of OAR chapter 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 chapter 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 C.F.R. 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 in excess of an emission limit, or a risk limit under

OAR chapter 340, division 245, contained in an applicable requirement, a permit or permit attachment limit;, ~~in excess of a risk limit under OAR chapter 340, division 245,~~ or emissions 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 chapter 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 chapter 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 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 chapter 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) NOx = 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~~

(723)(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.~~carbon dioxide (CO2), methane (CH4), nitrous oxide (N20), sulfur hexafluoride (SF6), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated greenhouse gases or fluorinated GHG as defined in 40 C.F.R. part 98.

(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.

(734) "Growth allowance" means an allocation of some part of an airshed's capacity to

accommodate future proposed sources and modifications of sources.

(745) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(756) “Hazardous Air Pollutant” or “HAP” means an air contaminant listed by the EPA 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.

(767) "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.

(778) "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.

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

(7980) "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.

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

(812) "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.

(823) “Internal combustion engine” means stationary gas turbines and reciprocating internal combustion engines.

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

(845) "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."

(856) "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.

(867) "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 under 40 C.F.R. 51.110. Maintenance areas are designated by the EQC according to division 204.

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

(889) "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.

(8990) “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.

(901) "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 chapter 340, division 210, Stationary Source Notification Requirements;, Compliance Assurance Monitoring, OAR 340-212-0200 through 340-212-0280; OAR 340-216-0066, Standard ACDPs; OAR chapter 340, division 218, Oregon Title V Operating Permits;, OAR chapter 340, division 220, Oregon Title V Operating Permit Fees;, 340-216-0066, Standard ACDPs, and OAR chapter 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 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.

(912) "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.

(923) "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.

(934) "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 C.F.R. 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.

(945) "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.

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

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

(978) "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.

(989) "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.

(10099) "Normal source operation" means operation that does not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.

(1001) "Odor" means that property of an air contaminant that affects the sense of smell.

(1012) "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.

(1023) "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.

(1034) "Oregon Title V oOperating pPermit" or “Title V permit” means written authorization issued, renewed, amended, or revised under OAR chapter 340, division 218.

(1045) "Oregon Title V oOperating pPermit program" or “Title V program” means the Oregon program described in OAR chapter 340, division 218 and approved by the Administrator under 40 C.F.R. part 70.

(1056) "Oregon Title V oOperating pPermit program source" or “Title V source” means any source subject to the permitting requirements, OAR chapter 340, division 218.

(1067) "Ozone precursor" means nitrogen oxides and volatile organic compounds.

(1078) "Ozone season" means the contiguous 3 month period during which ozone exceedances typically occur, i.e., June, July, and August.

(1089) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

(1109) "Particulate matter":

(a) Except as provided in subsection (b) of this section, means all finely divided solid andor liquid material, other than uncombined water, that is 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.

(b) As used in OAR chapter 340, division 208, Visible Emissions and Nuisance

Requirements, means all finely divided solid material, including dust, and all finely divided liquid material, other than uncombined water, that is emitted to the ambient air.

(110) "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 chapter 340, division 216, OAR chapter 340, division 224, or OAR 340-218-0160 through 340-218-0180.

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

(134) "Permitted emissions" as used in OAR chapter 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 under OAR 340-220-0090.

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

(156) "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.

(167) "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 chapter 340, division 220.

(178) “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.

(189) "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 C.F.R. part 50, Appendix J or an equivalent method designated under 40 C.F.R. part 53.

(1920) "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 (NOx) 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 C.F.R. part 50, Appendix L, or an equivalent method designated under 40 C.F.R. part 53.

(120~~1~~) "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.

(121~~2~~) "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated pollutant.

(122~~3~~) “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.

(123~~4~~) "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 U.S. EPA 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.

(124~~5~~) "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.

(125~~6~~) "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.

(1267) "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.

(1278) "Process upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.

(1289) "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.

(12930) “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.

(1301) “Reattainment pollutant” means a regulated pollutant for which an area is designated a reattainment area.

(1312) "Reference method" means any method of sampling and analyzing for a regulated pollutant as specified in 40 C.F.R. part 52, 60, 61 or 63.

(1323) "Regional agency" means Lane Regional Air Protection Agency.

(1334) "Regulated air pollutant" or "Regulated pollutant":

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

(A) Nitrogen oxides or any VOCs;

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

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

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

(E) Any pollutant listed under OAR 340-244-0040 or 40 C.F.R. 68.130;

(F) Greenhouse gases; and

(G) Toxic Air Contaminants.

(b) As used in OAR chapter 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 chapter 340, division 222, Plant Site Emission Limits and division 224, New Source Review, regulated pollutant does not include any pollutant listed in OAR chapter 340, divisions 244, ~~and~~ 246, and 247.

(d) As used in OAR chapter 340, division 202, Ambient Air Quality Standards And PSD Increments through division 208, Visible Emissions and Nuisance Requirements; division 215, Greenhouse Reporting Requirements; division 222, Stationary Source Plant Site Emission Limits through division 244, Oregon Federal Hazardous Air Pollutant Program; and division 248, Asbestos Requirements through division 268, Emission Reduction Credits; regulated pollutant means only the air contaminants listed under paragraphs (a)(A) through (F).

(134~~5~~) “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.

(135~~6~~) "Renewal" means the process by which a permit is reissued at the end of its term.

(136~~7~~) "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.

(137~~8~~) "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.

(138~~9~~) "Section 111" means section 111 of the FCAA, 42 U.S.C. § 7411, which includes Standards of Performance for New Stationary Sources (NSPS).

(1394~~0~~) "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.

(140~~1~~) "Section 112" means section 112 of the FCAA, 42 U.S.C. § 7412, which contains regulations for Hazardous Air Pollutants.

(141~~2~~) "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.

(142~~3~~) "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.

(143~~4~~) "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.

(144~~5~~) "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.

(145~~6~~) "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.

(146~~7~~) "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.

(1478) "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.

(1489) "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 NOx in ozone nonattainment areas.

(14950) "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 NOx sources in ozone nonattainment areas.

(1501) "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.

(1512) "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.

(1523) "Section 184" means section 184 of the FCAA, 42 U.S.C. § 7511c, which contains regulations for the control of interstate ozone air pollution.

(1534) "Section 302" means section 302 of the FCAA, 42 U.S.C. § 7602, which contains definitions for general and administrative purposes in the FCAA.

(1545) "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."

(1556) "Section 328" means section 328 of the FCAA, 42 U.S.C. § 7627, which contains regulations for air pollution from outer continental shelf activities.

(1567) "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.

(1578) "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.

(1589) "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.

(15960) "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.

(1601) "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 NOx) = 40 tons per year.

(h) Sulfur dioxide (SO2) = 40 tons per year.

(i) Ozone precursors (VOC or NOx) = 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) Inorganic fFluorides compounds (as measured by EPA method 13A or 13B), excluding hydrogen fluoride = 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 5.0 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 ug/m3 (24 hour average) is emitting at a SER. This subsection does not apply to greenhouse gas emissions.

(1612) "Significant impact" means an additional ambient air quality concentration equal to or greater than the significant impact level. For sources of VOC or NOx, a source has a significant impact if it is located within the ozone impact distance defined in OAR 340 division 224.

(1623) “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 chapter 340, division 202, but do not apply for protecting air quality related values, including visibility.

(a) For Class I areas:

(A) PM2.5:

(i) Annual = 0.06 µg/m3.

(ii) 24-hour = 0.07 µg/m3.

(B) PM10:

~~(i) Annual = 0.20 µg/m3.~~

(i~~i~~) 24-hour = 0.30 µg/m3.

(C) Sulfur dioxide:

(i) Annual = 0.10 µg/m3.

(ii) 24-hour = 0.20 µg/m3.

(iii) 3-hour = 1.0 µg/m3.

(D) Nitrogen dioxide: annual = 0.10 µg/m3.

(b) For Class II areas:

(A) PM2.5:

(i) Annual = 0.3 µg/m3.

(ii) 24-hour = 1.2 µg/m3.

(B) PM10:

~~(i) Annual = 0.20 µg/m3.~~

(i~~i~~) 24-hour = 1.0 µg/m3.

(C) Sulfur dioxide:

(i) Annual = 1.0 µg/m3.

(ii) 24-hour = 5.0 µg/m3.

(iii) 3-hour =25.0 µg/m3.

(iv) 1-hour = 8.0 µg/m3.

(D) Nitrogen dioxide:

(i) Annual =1.0 µg/m3.

(ii) 1-hour = 8.0 µg/m3.

(E) Carbon monoxide:

(i) 8-hour = 0.5 mg/m3.

(ii) 1-hour = 2.0 mg/m3.

(c) For Class III areas:

(A) PM2.5:

(i) Annual = 0.3 µg/m3.

(ii) 24-hour = 1.2 µg/m3.

(B) PM10:

~~(i) Annual = 0.20 µg/m3.~~

(ii) 24-hour = 1.0 µg/m3.

(C) Sulfur dioxide:

(i) Annual = 1.0 µg/m3.

(ii) 24-hour = 5.0 µg/m3.

(iii) 3-hour = 25.0 µg/m3.

(D) Nitrogen dioxide: annual = 1.0 µg/m3

(E) Carbon monoxide:

(i) 8-hour = 0.5 mg/m3.

(ii) 1-hour = 2.0 mg/m3.

(1634) "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.

(1645) "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.

(1656) "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.

(1667) "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 chapter 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 air pollution control device.

(1678) "Source test" means the average of at least three test runs conducted under the DEQ Source Sampling Manual found in 340-200-0035.

(1689) "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).

(16970) "Startup" and "shutdown" means that time during which a source or control device is brought into normal operation or normal operation is terminated, respectively.

(1701) "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.

(1712) “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.

(1723) "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 chapter 340, division 216.

(1734) "Substantial underpayment" means the lesser of 10 percent of the total interim emission fee for the major source or five hundred dollars.

(1745) “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.

(1756) “Sustainment pollutant” means a regulated pollutant for which an area is designated a sustainment area.

(1767) "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.

(1778) "Title I modification" means one of the following modifications 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.

(1789) "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).

(17980) “Toxic air contaminant” means an air pollutant that has been determined by the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health and is listed in OAR 340-247-8010 Table 1.

(1801) “Type A State NSR” means State NSR as specified in OAR 340-224-0010(2)(a).

(1812) “Type B State NSR” means State NSR that is not Type A State NSR.

(1823) "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.

(1834) "Unassigned emissions" means the amount of emissions that are in excess of the PSEL but less than the netting basis.

(1845) "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.

(1856) “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 chapter 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.

(1867) "Upset" or "Breakdown" means any failure or malfunction of any air pollution control device or operating equipment that may cause excess emissions.

(1878) "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

(1889) "Veneer dryer" means equipment in which veneer is dried.

(1890) "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.

(1901) "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) VOCThis 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;

(III) cis-1,1,1,4,4,4-hexafluorobut-2-ene (also known as HFO-1336mzz-Z); and

(JJJ) t-butyl acetate.

(b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable ~~reference~~ test method in the DEQ Source Sampling Manual referenced in OAR 340-200-0035. 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) When considering a requested exclusion of negligibly-reactive compounds under subsection (b), DEQ may require an owner or operator to provide monitoring or testing methods and results that demonstrat~~e~~ing, 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~~2~~) "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~~3~~) “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.

(1934) "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 chapter 340, division 245.

[NOTE: Referenced publications not linked to below are available from the agency.]

[NOTE: View a PDF of referenced tables and EPA Methods by clicking on "Tables" link below.]

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

Statutory/Other Authority: ORS 468.020 & 468A
Statutes/Other 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
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 12-2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15
DEQ 11-2013, f. & cert. ef. 11-7-13
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2012, f. & cert. ef. 5-17-12
DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 10-2008, f. & cert. ef. 8-25-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0205, 340-028-0110
DEQ 6-1999, f. & cert. ef. 5-21-99
DEQ 1-1999, f. & cert. ef. 1-25-99
DEQ 21-1998, f. & cert. ef. 10-14-98
DEQ 16-1998, f. & cert. ef. 9-23-98
DEQ 14-1998, f. & cert. ef. 9-14-98

DEQ 9-1997, f. & cert. ef. 5-9-97
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 12-1995, f. & cert. ef. 5-23-95
DEQ 10-1995, f. & cert. ef. 5-1-95
DEQ 24-1994, f. & cert. ef. 10-28-94
DEQ 21-1994, f. & cert. ef. 10-14-94
DEQ 13-1994, f. & cert. ef. 5-19-94
DEQ 20-1993(Temp), f. & cert. ef. 11-4-93
DEQ 19-1993, f. & cert. ef. 11-4-93
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 4-1993, f. & cert. ef. 3-10-93
DEQ 27-1992, f. & cert. ef. 11-12-92
DEQ 7-1992, f. & cert. ef. 3-30-92
DEQ 2-1992, f. & cert. ef. 1-30-92
DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91
DEQ 14-1989, f. & cert. ef. 6-26-89
DEQ 8-1988, f. & cert. ef. 5-19-88
DEQ 18-1984, f. & cert. ef. 10-16-84
DEQ 5-1983, f. & cert, ef. 4-18-83
DEQ 25-1981, f. & cert. ef. 9-8-81
DEQ 15-1978, f. & cert. ef. 10-13-78
DEQ 107, f. & cert. ef. 1-6-76, Renumbered from 340-020-0033
DEQ 63, f. 12-20-73, cert. ef. 1-11-74
DEQ 47, f. 8-31-72, cert. ef. 9-15-72

340-200-0025
Abbreviations and Acronyms

(1) “AAQS” means ambient air quality standard.

(2) "ACDP" means Air Contaminant Discharge Permit.

(3) "ACT" means Federal Clean Air Act.

(4) "AE" means Actual Emissions.

(5) "AICPA" means Association of Independent Certified Public Accountants.

(6) "AQCR" means Air Quality Control Region.

(7) “AQRV” means Air Quality Related Value

(8) "AQMA" means Air Quality Maintenance Area.

(9) "ASME" means American Society of Mechanical Engineers.

(10) "ASTM" means American Society for Testing & Materials.

(11) "ATETP" means Automotive Technician Emission Training Program.

(12) "AWD" means all wheel drive.

(13) "BACT" means Best Available Control Technology.

(14) “BART” means Best Available Retrofit Technology.

(15) "BLS" means black liquor solids.

(16) "CAA" means Clean Air Act

(17) "CAR" means control area responsible party.

(18) "CBD" means central business district.

(19) "CCTMP" means Central City Transportation Management Plan.

(20) "CEM" means continuous emissions monitoring.

(21) "CEMS" means continuous emission monitoring system.

(22) "CERCLA" means Comprehensive Environmental Response Compensation and Liability Act.

(23) "CFRMS" means continuous flow rate monitoring system.

(24) "CFR" or “C.F.R.” means Code of Federal Regulations.

(25) "CMS" means continuous monitoring system.

(26) "CO" means carbon monoxide.

(27) “CO2e” means carbon dioxide equivalent.

(28) "COMS" means continuous opacity monitoring system.

(29) "CPMS" means continuous parameter monitoring system.

(30) "DEQ" means Department of Environmental Quality.

(31) "DOD" means Department of Defense.

(32) "EA" means environmental assessment.

(33) "ECO" means employee commute options.

(34) "EEAF" means emissions estimate adjustment factor.

(35) "EF" means emission factor.

(36) "EGR" means exhaust gas re-circulation.

(37) "EIS" means Environmental Impact Statement.

(38) "EPA" means Environmental Protection Agency.

(39) "EQC" means Environmental Quality Commission.

(40) "ESP" means electrostatic precipitator.

(41) "FCAA" means Federal Clean Air Act.

(42) "FHWA" means Federal Highway Administration.

(43) "FONSI" means finding of no significant impact.

(44) "FTA" means Federal Transit Administration.

(45) "GFA" means gross floor area.

(46) “GHG” means greenhouse gases.

(47) "GLA" means gross leasable area.

(48) "GPM" means grams per mile.

(49) "gr/dscf" means grains per dry standard cubic foot.

(50) "GTBA" means grade tertiary butyl alcohol.

(51) "GVWR" means gross vehicle weight rating.

(52) "HAP" means hazardous air pollutant.

(53) "HEPA" means high efficiency particulate air.

(54) "HMIWI" means hospital medical infectious waste incinerator.

(55) "I/M" means inspection and maintenance program.

(56) "IG" means inspection grade.

(57) "IRS" means Internal Revenue Service.

(58) "ISECP" means indirect source emission control program.

(59) "ISTEA" means Intermodal Surface Transportation Efficiency Act.

(60) "LAER" means Lowest Achievable Emission Rate.

(61) "LDT2" means light duty truck 2.

(62) "LIDAR" means laser radar; light detection and ranging.

(63) "LPG" means liquefied petroleum gas.

(64) "LRAPA" means Lane Regional Air Protection Agency.

(65) "LUCS" means Land Use Compatibility Statement.

(66) "MACT" means Maximum Achievable Control Technology.

(67) "MPO" means Metropolitan Planning Organization.

(68) "MTBE" means methyl tertiary butyl ether.

(69) "MWC" means municipal waste combustor.

(70) "NAAQS" means National Ambient Air Quality Standards.

(71) “NAICS” means North American Industrial Classification System.

(72) "NEPA" means National Environmental Policy Act.

(73) "NESHAP" means National Emissions Standard for Hazardous Air Pollutants.

(74) "NIOSH" means National Institute of Occupational Safety & Health.

(75) "NOx" means nitrogen oxides.

(76) "NSPS" means New Source Performance Standards.

(77) "NSR" means New Source Review.

(78) "NSSC" means neutral sulfite semi-chemical.

(79) "O3" means ozone.

(80) "OAR" means Oregon Administrative Rules.

(81) "ODOT" means Oregon Department of Transportation.

(82) "ORS" means Oregon Revised Statutes.

(83) "OSAC" means orifice spark advance control.

(84) "OSHA" means Occupational Safety & Health Administration.

(85) "PCDCE" means pollution control device collection efficiency.

(86) "PEMS" means predictive emission monitoring system.

(87) "PM" means particulate matter.

(88) "PM10" means particulate matter less than 10 microns.

(89) “PM2.5” means particulate matter less than 2.5 microns.

(90) "POTW" means Publicly Owned Treatment Works.

(91) "POV" means privately owned vehicle.

(92) “ppm” means parts per million.

(93) "PSD" means Prevention of Significant Deterioration.

(94) "PSEL" means Plant Site Emission Limit.

(95) "QIP" means quality improvement plan.

(96) "RACT" means Reasonably Available Control Technology.

(97) “ROI” means range of influence.

(98) "RVCOG" means Rogue Valley Council of Governments.

(99) "RWOC" means running weighted oxygen content.

(100) "scf" means standard cubic feet.

(101) "SCS" means speed control switch.

(102) "SD" means standard deviation.

(103) “SER” means significant emission rate.

(104~~3~~) “SERP” means source emission reduction plan.

(105~~4~~) “SIC” means Standard Industrial Classification from the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987).

(106~~5~~) "SIP" means State Implementation Plan.

(107~~6~~) "SKATS" means Salem-~~Kaiser~~Keizer Area Transportation Study.

(108~~7~~) “SLAMS” means State or Local Air Monitoring Stations.

(109~~8~~) "SO2" means sulfur dioxide.

(1109) "SOCMI" means synthetic organic chemical manufacturing industry.

(1110) "SOS" means Secretary of State.

(1121) “SPMs” means Special Purpose Monitors.

(1132) "TAC" means thermostatic air cleaner.

(1143) "TACT" means Typically Achievable Control Technology.

(1154) "TCM" means transportation control measures.

(1165) "TCS" means throttle control solenoid.

(1176) "TIP" means Transportation Improvement Program.

(1187) “tpy” means tons per year.

(1198) "TRS" means total reduced sulfur.

(12019) "TSP" means total suspended particulate matter.

(1210) "UGA" means urban growth area.

(1221) "UGB" means urban growth boundary.

(1232) “USC” means United States Code.

(1243) "US DOT" means United States Department of Transportation.

(1254) "UST" means underground storage tanks.

(1265) "UTM" means universal transverse mercator.

(1276) "VIN" means vehicle identification number.

(1287) "VMT" means vehicle miles traveled.

(1298) "VOC" means volatile organic compounds.

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 & 468A
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 5-2010, f. & cert. ef. 5-21-10

DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 3-2007, f. & cert. ef. 4-12-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

DEQ 15, f. 6-12-70, ef. 9-1-70

340-200-0035
Reference Materials

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

(1) "C.F.R." or "CFR" means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, 2022~~0~~ edition.

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

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

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

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

Statutory/Other Authority: ORS 468.020 & 468A
Statutes/Other Implemented: ORS 468A
History:
DEQ 2-2019, minor correction filed 01/07/2019, effective 01/07/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 53-2017, minor correction filed 12/19/2017, effective 12/19/2017
DEQ 7-2015, f. & cert. ef. 4-16-15

340-200-0040
State of Oregon Clean Air Act Implementation Plan

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

(2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR chapter 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 ~~February 3, 2022~~November 18, 2022.

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

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

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

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

Statutory/Other Authority: ORS 468.020 & 468A
Statutes/Other Implemented: ORS 468A.035 & 468A.135
History:
DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019
DEQ 14-2019, amend filed 05/17/2019, effective 05/17/2019
DEQ 4-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 192-2018, amend filed 09/14/2018, effective 09/14/2018
DEQ 190-2018, amend filed 07/13/2018, effective 07/13/2018
DEQ 11-2018, amend filed 03/23/2018, effective 03/23/2018
DEQ 7-2017, f. & cert. ef. 7-13-17
DEQ 2-2017, f. & cert. ef. 1-19-17
DEQ 14-2015, f. & cert. ef. 12-10-15
DEQ 10-2015, f. & cert. ef. 10-16-15
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2015, f. & cert. ef. 4-16-15
DEQ 7-2014, f. & cert. ef. 6-26-14
DEQ 6-2014, f. & cert. ef. 3-31-14
DEQ 5-2014, f. & cert. ef. 3-31-14
DEQ 4-2014, f. & cert. ef. 3-31-14
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 12-2013, f. & cert. ef. 12-19-13
DEQ 11-2013, f. & cert. ef. 11-7-13
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 10-2012, f. & cert. ef. 12-11-12
DEQ 7-2012, f. & cert. ef 12-10-12
DEQ 1-2012, f. & cert. ef. 5-17-12
DEQ 18-2011, f. & cert. ef. 12-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 14-2010, f. & cert. ef. 12-10-10
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 2-2010, f. & cert. ef. 3-5-10

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

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

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

Division 204
DESIGNATION OF AIR QUALITY AREAS

340-204-0300
Designation of Sustainment Areas

(1) The EQC may designate sustainment areas provided that DEQ submits a request for designation that includes the following information:

(a) Monitoring data showing that an area is exceeding or has the potential to exceed an ambient air quality standard;

(b) A description of the affected area based on the monitoring data;

(c) A discussion and identification of the priority sources contributing to the exceedance or potential exceedance of the ambient air quality standard; and

(d) A discussion of the reasons for the proposed designation.

(2) Designation of sustainment areas:

(a) The Lakeview UGB as defined in OAR 340-204-0010 is designated as a sustainment area for PM2.5.

(b) Reserved

(3) An area designated as a sustainment area under section (2) will automatically be reclassified immediately upon the EPA officially designating the area as a nonattainment area.

(4) The EQC may rescind the designation based on a request by DEQ. DEQ will consider the following information for rescinding the designation:

(a) Whether at least three consecutive years of monitoring data shows the area is meeting the ambient air quality standard; and

(b) A request by a local government.

NOTE: This rule~~, except sections (2), (3) and (4),~~ 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 & 468A
Statutes/Other Implemented: ORS 468A.025 & 468A.035
History:
DEQ 7-2015, f. & cert. ef. 4-16-15

340-204-0310
Designation of Reattainment Areas

(1) The EQC may designate reattainment areas provided that DEQ submits a request for designation that includes the following information:

(a) At least three consecutive years of monitoring data showing that an area that is currently designated by EPA as nonattainment is attaining an ambient air quality standard; and

(b) A discussion of the reasons for the proposed designation.

(2) Reserved for list of reattainment areas.

(3) An area designated as a reattainment area under section (2) will automatically be reclassified immediately upon:

(a) The EQC designating the area as a maintenance area and EPA officially designating the area as an attainment area; or

(b) The EQC rescinding the designation based on a request by DEQ. DEQ will consider the following information for rescinding the designation:

(A) Monitoring data that shows the area is not meeting the ambient air quality standard; and

(B) A request by a local government.

NOTE: This rule~~, except sections (2) and (3),~~ 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 & 468A
Statutes/Other Implemented: ORS 468A.025 & 468A.035
History:
DEQ 7-2015, f. & cert. ef. 4-16-15

Division 206
AIR POLLUTION EMERGENCIES

340-206-0010
Introduction

OAR 340-206-0030, 340-206-0050 and 340-206-0060 are effective within priority I and II air quality control regions (AQCR) as defined in 40 CFR part 51, subpart H (1995), when the AQCR contains an AQMA as defined in OAR 340-204-0010, or a nonattainment area listed in 40 CFR part 81. All other rules in this division are equally applicable to all areas of the state. Notwithstanding any other regulation or standard, this division is designed to prevent the excessive accumulation of air contaminants during periods of atmospheric stagnation or at any other time, which if allowed to continue to accumulate unchecked could result in concentrations of these contaminants reaching levels which could cause significant harm to the health of persons. This division establishes criteria for identifying and declaring air pollution episodes at levels below the level of significant harm and are adopted pursuant to the requirements of the FCAA as amended and 40 CFR part 51.151. Levels of significant harm for various regulated pollutants listed in 40 CFR part 51.151 are:

(1) For sulfur dioxide (SO2) — 1.0 ppm, 24-hour average.

(2) For particulate matter:

(a) PM10 — 600 micrograms per cubic meter, 24-hour average.

(b) PM2.5 — 350.5 micrograms per cubic meter, 24-hour average.

(3) For carbon monoxide (CO):

(a) 50 ppm, 8-hour average.

(b) 75 ppm, 4-hour average.

(c) 125 ppm, 1-hour average.

(4) For ozone (O3) — 0.6 ppm, 2-hour average.

(5) For nitrogen dioxide (NO2):

(a) 2.0 ppm, 1-hour average.

(b) 0.5 ppm, 24-hour average.

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 & 468A
Statutes/Other Implemented: ORS 468A.025 & 468A.035
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-027-0005
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88)
DEQ 18-1983, f. & ef. 10-24-83
DEQ 37, f. 2-15-72, ef. 9-1-72

Division 208
VISIBLE EMISSIONS AND NUISANCE REQUIREMENTS

340-208-0110
Visible Air Contaminant Limitations

(1) The emissions standards in this rule do not apply to:

(a) ~~f~~Fugitive emissions from a source or part of a source; or

(b) Recovery furnaces regulated under OAR chapter 340, division 234.

(2) The visible emissions standards in this rule are based on the average of 24 consecutive observations recorded at 15-second intervals, or more frequently as allowed under subsection (b), which comprise a six-minute block. Six-minute blocks need not be consecutive in time and in no case may two blocks overlap. For each set of 24 observations, the six-minute block average is calculated by summing the opacity of the 24 observations and dividing the sum by 24. Six-minute block averages are measured by:

(a) EPA Method 9;

(b) A continuous opacity monitoring system (COMS) installed and operated in accordance with the DEQ Continuous Monitoring Manual or 40 C.F.R. part 60 [NOTE: DEQ manual is published with OAR 340-200-0035]; or

(c) An alternative monitoring method approved by DEQ that is equivalent to EPA Method 9.

(3)(a) For all emissions unit~~ssources~~, ~~other than wood-fired boilers, installed, constructed or modified prior to June 1, 1970:~~

~~(a) If located outside a special control area,~~ no person may emit or allow to be emitted any visible emissions that equal or exceed~~:~~

~~(A) An average of 40 percent opacity through December 31, 2019; and~~

~~(B)~~ ~~A~~an average of 20 percent opacity ~~on and after January 1, 2020~~, except as allowed under subsection (b) or (c).

~~(b) If located inside a special control area, no person may emit or allow to be emitted any visible emissions that equal or exceed an average of 20 percent opacity.~~

~~(4) For sources, other than wood-fired boilers, installed, constructed, or modified on or after June 1, 1970, no person may emit or allow to be emitted any visible emissions that equal or exceed an average of 20 percent opacity.~~

(b~~5~~) For wood-fired boilers installed, constructed or last modified ~~prior to~~ on or after June 1, 1970 but before April 16, 2015, ~~no person may emit or allow to be emitted any visible emissions that equal or exceed:~~

~~(a) An average of 40 percent opacity through December 31, 2019, with the exception that visible emissions may equal or exceed an average of 40 percent opacity for up to two independent six-minute blocks in any hour, as long as the average opacity during each of these two six-minute blocks is less than 55 percent.~~

~~(b) A~~an average of 20 percent opacity ~~on or after January 1, 2020, with one or more of the following exceptions:~~

~~(A) V~~visible emissions may equal or exceed an average of 20 percent opacity for up to two independent six-minute blocks in any hour, as long as the average opacity during each of these two six-minute blocks is less than 40 percent;

(c~~B~~) For wood-fired boilers installed, constructed or last modified prior to June 1, 1970:

(A) Visible emissions may equal or exceed an average of 20 percent opacity but may not equal or exceed 40 percent opacity, as the average of all six-minute blocks during grate cleaning operations provided the grate cleaning is performed in accordance with a grate cleaning plan approved by DEQ; or

(B~~C~~) DEQ may approve, at the owner's or operator's request, a boiler specific limit greater than an average of 20 percent opacity, but not to equal or exceed an average of 40 percent opacity, based on the opacity measured during a source test that demonstrates compliance with OAR 340-228-0210(2)(d) ~~as provided below~~and:

(i) Opacity must be measured for at least 60 minutes during each compliance source test run using any method included in section (2);

(ii) The boiler specific limit will be the average of at least 30 six-minute block averages obtained during the compliance source test;

(iii) The boiler-specific limit will include a higher limit for one six-minute period during any hour based on the maximum six-minute block average measured during the compliance source test;

(iv) Specific opacity limits will be included in the permit for each affected source as a minor permit modification (simple fee) for sources with an Oregon Title V Operating Permit or a Basic Technical Modification for sources with an Air Contaminant Discharge Permit; and

(v) If an alternative limit is established in accordance with this paragraph, the exception provided in paragraph (A) does not apply.

~~(6) For wood-fired boilers installed, constructed, or modified after June 1, 1970 but before April 16, 2015, no person may emit or allow to be emitted any visible emissions that equal or exceed an average of 20 percent opacity with the exception that visible emissions may equal or exceed an average of 20 percent opacity for up to two independent six-minute blocks in any hour, as long as the average opacity during each of these two six-minute blocks is less than 40 percent.~~

~~(7) For all wood-fired boilers installed, constructed, or modified after April 16, 2015, no person may emit or allow to be emitted any visible emissions that equal or exceed an average of 20 percent opacity.~~

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

[NOTE: View a PDF of referenced EPA Method by clicking on "Tables" link below.]

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

Statutory/Other Authority: ORS 468.020 & 468A
Statutes/Other Implemented: ORS 468A.025 & 468A.035
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 121-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 2-2001, f. & cert. ef 2-5-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0015
DEQ 3-1996, f. & cert. ef. 1-29-96
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 16, f. 6-12-70, ef. 7-11-70

340-208-0510
Clackamas, Columbia, Multnomah, and Washington Counties: Exclusions

(1) The requirements contained in OAR 340-208-0510 through 340-208-0610 apply to all activities conducted in Clackamas, Columbia, Multnomah, and Washington Counties, ~~other than those~~ except for activities for which specific industrial standards have been adopted (under OAR chapter 340, ~~D~~divisions 230, 234, 236, ~~and~~ 238, and 244)~~, and except for the reduction of animal matter, 340-236-0310(1) and (2)~~.

(2) The requirements outlined in OAR 340-208-0510 through 340-208-0610 do not apply to

activities related to a domestic residence of four or fewer family-living units.

Statutory/Other Authority: ORS 468 & 468A
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 2-2001, f. & cert. ef. 2-5-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0410
DEQ 4-1993, f. & cert. ef. 3-10-93, Renumbered from 340-028-0003
DEQ 61, f. 12-5-73, ef. 12-25-73

340-208-0610
Clackamas, Columbia, Multnomah, and Washington Counties: Particulate Matter Weight Standards

Except for equipment burning natural gas and liquefied petroleum gas, the maximum allowable emission of particulate matter from any fuel burning equipment:

(1) Is a function of maximum heat input as determined from Figure 1, except that from:

(a) ~~e~~Existing fuel burning equipment installed, constructed or last modified on or before June 1, 1970, utilizing wood residue, it is 0.20 grain per standard cubic foot of exhaust, corrected to 12 percent carbon dioxide;~~,~~ and

(b) ~~from n~~New fuel burning equipment installed, constructed, or modified after June 1, 1970 utilizing wood residue, it is 0.10 grain per standard cubic foot of exhaust gas, corrected to 12 percent carbon dioxide; and

(2) Must not exceed Smoke Spot #2 for distillate fuel and #4 for residual fuel, measured by ASTM D2156-65, "Standard Method for Test for Smoke Density of the Flue Gases from Distillate Fuels."

[NOTE: View a PDF of Figure by clicking on "Tables" link below.]

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

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

Statutory/Other Authority: ORS 468 & 468A
Statutes/Other Implemented: ORS 468.020 & 468A.025
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2001, f. & cert. ef. 2-5-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0510
DEQ 3-1996, f. & cert. ef. 1-29-96
DEQ 4-1993, f. & cert. ef. 3-10-93, Renumbered from 340-028-0075
DEQ 61, f. 12-5-73, ef. 12-25-73

Division 209
PUBLIC PARTICIPATION

340-209-0080
Issuance or Denial of a Permit

(1) Following the public comment period and public hearing, if one is held, DEQ will take action upon the matter as expeditiously as possible. Before taking such action, DEQ will prepare a written response to address each relevant, distinct issue raised during the comment period and raised during the hearing on the record.

(2) DEQ will make a record of the public comments, including the names and affiliation of persons who commented, and the issues raised during the public participation process. The public comment records may be in summary form rather than a verbatim transcript. The public comment records are available to the public at the DEQ office processing the permit.

(3) The applicant may submit a written response to any comments submitted by the public within 10 working days after DEQ provides the applicant with a copy of the written comments received by DEQ. DEQ will consider the applicant's response in making a final decision.

(4) After considering the comments, DEQ may adopt or modify the provisions requested in the permit application.

(5) Issuance of permit: DEQ will promptly notify the applicant in writing of the final action as provided in OAR 340-011-0525 and will include a copy of the issued permit. If the permit conditions are different from those contained in the proposed permit, the notification will identify the affected conditions and include the reasons for the changes. The permit is effective on the date that it is signed unless the applicant requests a hearing to contest the permit within 20 days of the date of the notification of issuance of the permit.

(6) Denial of a permit application: If DEQ proposes to deny a permit application, DEQ will promptly notify the applicant in writing of the proposed final action as provided in OAR 340-011-0525. ~~If DEQ denies a permit application, t~~The notification will include the reasons for the denial. The denial of a permit application is effective 60 days from the date of notification of the proposed denial unless within that time, the applicant requests a hearing as provided in section (7).

(7) ~~DEQ's decision under sections (5) and (6) is effective 20 days from the date of service of the notice unless, within that time, DEQ receives a request for a hearing from the applicant.~~ A~~The~~ request for a hearing to challenge a DEQ decision under section (5) or (6) must be in writing and state the grounds for the request. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413 through 183.470 and OAR chapter 340, division 11.

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 183.413, 183.415, 468.065, 468A.035, 468A.040 & 468A.310
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 42, f. 4-5-72, ef. 4-15-72; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0025 & 340-014-0035; DEQ 8-2007, f. & cert. ef. 11-8-07

Division 210
STATIONARY SOURCE NOTIFICATION REQUIREMENTS

340-210-0100
Registration in General

(1) Any air contaminant source not subject to Air Contaminant Discharge Permits, OAR chapter 340, division 216, or Oregon Title V Operating Permits, OAR chapter 340, division 218, must register with DEQ upon request pursuant to OAR 340-210-0110 through 340-210-0120.

(2) The owner or operator of an air contaminant source listed in subsection ~~(2)~~(a) that is certified through a DEQ approved environmental certification program, as provided in subsection (b), and that is subject to an Area Source NESHAP may register the source with DEQ pursuant to OAR 340-210-0110 through 340-210-0120 in lieu of obtaining a permit ~~according to with~~otherwise required by OAR 340-216-0020, unless DEQ determines that the source has not complied with the requirements of the environmental certification program. A source registered under this section must pay fees as provided in subsection (c), is subject to termination of its registration for failure to pay fees as provided in subsection (d), and must keep records as provided in subsection (e).

(a) The following sources may be registered under this section:

(A) Motor vehicle surface coating operations.

(B) Dry cleaners using perchloroethylene.

(b) Approved environmental certification program. To be approved, the environmental certification program must, at a minimum, require certified sources to comply with all applicable state and federal rules and regulations and require additional measures to increase environmental protection.

(c) Fees. In order to obtain and maintain registration, owners and operators of sources registered pursuant to this section must pay the ~~following~~ annual registration fees in OAR 340-216-8020 Table 2 by March 1 of each year.~~:~~

~~(A) Motor vehicle surface coating operations — $288.00.~~

~~(B) Dry cleaners using perchloroethylene — $216.00.~~

~~(C) Late fees.~~

~~(i) 8–30 days late: 5% of annual fee.~~

~~(ii) 31–60 days late: 10% of annual fee.~~

~~(iii) 61 or more days late: 20% of annual fee.~~

(d~~D~~) Failure to pay fees. Registration is automatically terminated upon failure to pay annual fees by March 1 of each year ~~within 90 days of invoice by DEQ~~, unless prior arrangements for payment have been approved in writing by DEQ.

(e~~d~~) Recordkeeping. In order to maintain registration, owners and operators of sources registered pursuant to this section must maintain records required by the approved environmental performance program under subsection ~~(2)~~(b). The records must be kept on site and in a form suitable and readily available for expeditious inspection and review.

(3) The owner or operator of an air contaminant source that is subject to a federal NSPS in 40 CFR part 60 or NESHAP in ~~40 CFR part 60 or~~ 40 CFR part 63 and that is not located at a source that is required to obtain a permit under OAR chapter 340, division 216 (Air Contaminant Discharge Permits) or OAR chapter 340, division 218 (Oregon Title V Operating Permits), must register and maintain registration with DEQ pursuant to OAR 340-210-0110 through 340-210-0120 if requested in writing by DEQ (or by EPA at DEQ's request).

(4) Revocation. DEQ may revoke a registration if a source fails to meet any requirement in OAR 340-210-0110.

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.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.035, 468A.050, 468A.070 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.035, 468A.050, 468A.070 & 468A.310
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
Reverted to DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2012, f. & cert. ef. 5-17-12
Reverted to DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0500
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0005

DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 15, f. 6-12-70, ef. 9-1-70

340-210-0205
Notice of Construction and Approval of Plans: Applicability and Requirements

(1) Except as provided in section (2), OAR 340-210-02050 through 340-210-0250 apply to the following:

(a) New Sources.

All new sourcesOwners or operators of proposed new sources, not otherwise required to obtain a permit under OAR chapter 340, division 216 or 218., must submit a notice of construction application before undertaking construction or operation of a new source that emits any regulated air pollutant. Sources that are required to obtain a permit application under OAR 340, division 216 or 218, are not required to submit a Nnotice of Cconstruction application under this rule;

(b) Existing Sources. Modifications at Owners or operators of existing sources, including sources that have permits under OAR chapter 340, division 216 or 218, must submit the appropriate application before undertaking any of the following:; and

(A) Construction or modification that will cause an increase, on an hourly basis at full production, in any regulated air pollutant emissions;

(B) Replacement of a device or activity that emits any regulated air pollutants; or

(C) Construction, modification, or replacement of any air pollution control device.

(c) All sources that use air pollution control devices to comply with emissions limits, or to avoid the requirement to obtain an Oregon Title V Operating Permit (OAR 340 division 218) or Major NSR or Type A State NSR (OAR 340 division 224) requirements, or MACT standards (OAR 340 division 244).

(2) OAR 340-210-0205 through 340-210-0250 do not apply to the following sources:

(a) Sources for which the owners or operators are required to obtain a permit under OAR chapter 340, division 216 or 218 for the construction or modification;

(ba) Agricultural operations or equipment that is exempted by OAR 340-200-0030;

(cb) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families;

(ed) Other activities associated with residences used exclusively as dwellings for not more than four families, including, but not limited to barbecues, house painting, maintenance, and groundskeeping;

(ed) Portable sources, except modifications of portable sources that have permits under OAR chapter 340, division 216 or 218 and are specified in section (1); and

(fe) Categorically insignificant activities as defined in OAR 340-200-0020 unless they are subject to NESHAP or NSPS requirements. This exemption applies to all categorically insignificant activities whether or not they are located at major or non-major sources.

(3) OAR 340-210-0205 through 340-210-0250 apply to Title V sources under OAR 340-218-0190 but are called Notices of Approval.

NOTE: This rule, with the exception of section (3), 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, 468A.025 & 468A.055
Statutes/Other Implemented: ORS 468A.025, 468A.035 & 468A.055
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 12-2008, f. & cert. ef. 9-17-08
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-210-0210
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0810
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0025
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 37, f. 2-15-72, ef. 3-1-72
DEQ 15, f. 6-12-70, ef. 9-1-70

~~**340-210-0215**~~
~~**Notice of Construction and Approval of Plans: Requirement**~~

~~(1) New Sources. No person is allowed to construct, install, or establish a new source that will cause an increase in any regulated pollutant emissions without first notifying DEQ in writing.~~

~~(2) Modifications to existing sources. No person is allowed to make a physical change or change in operation of an existing source that will cause an increase, on an hourly basis at full production, in any regulated pollutant emissions without first notifying DEQ in writing.~~

~~(3) Air Pollution Control Devices. No person is allowed to construct or modify any air pollution control device without first notifying DEQ in writing.~~

~~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, 468A.025 & 468A.055~~
~~**Statutes/Other Implemented:** ORS 468A.025, 468A.035 & 468A.055~~
~~**History:**~~
~~DEQ 7-2015, f. & cert. ef. 4-16-15~~

~~DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-210-0200~~
~~DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0800~~
~~DEQ 19-1993, f. & cert. ef. 11-4-93~~
~~DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0020~~
~~DEQ 4-1993, f. & cert. ef. 3-10-93~~
~~DEQ 15, f. 6-12-70, cef. 9-1-70~~

340-210-0225
Notice of Construction and Approval of Plans: Types of Construction/Modification Changes

For the purpose of OAR 340-210-020~~5~~0 through 340-210-0250, emission calculations for determining the type of change at a source must use the regulated air pollutant emission capacity, except for Type 1 changes under subsection (1)(b) and Type 4 changes. The notices of construction changes ~~that involve new construction or modifications of sources or air pollution control devices~~ are divided into the following ~~T~~types:

(1) Type 1 changes include construction or modification ~~of sources or air pollution control devices where such a change meets the criteria in subsections (a) through (f)~~ for which the owner or operator is not required to obtain a permit or permit modification under OAR chapter 340, division 216, and where the changes meet the criteria in either subsection (a) or (b):

(a) The construction or modification would:

(A) Have emissions from any new, modified, or replaced device or activity, or any combination of devices or activities, of less than or equal to the de minimis levels defined in OAR 340-200-0020;

(B) Not result in an increase of emissions from the source above any PSEL;

(C) Not result in an increase of emissions from the source above the netting basis by more than or equal to the SER;

(D) Not be used to establish a federally enforceable limit on the potential to emit; and

(E) Not require a TACT determination under OAR 340-226-0130 or a MACT determination under OAR 340-244-0200; or

(b) The construction or modification is one of the following:

(A) Stationary internal combustion engines having a rated capacity <60 horsepower output;

(B) Emergency stationary internal combustion Tier 4 engines having a rated capacity <670 horsepower (500 kilowatts) output;

(C) Hand-held sanding equipment;

(D) Portable vacuum blasting equipment using steel shot and vented to a fabric filter;

(E) Shot peening operations, provided that no surface material is removed;

(F) Replacement of equipment that is used to control processes, such as temperature, air pressure, water pressure, electrical current, flow rate, etc.;

(G) Equipment and instrumentation used for quality control/assurance or inspection purposes;

(H) Vacuum pumps;

(I) Equipment used for extrusion, compression molding, and injection molding of plastics, provided that the VOC content of all mold release products or lubricants is <1% by weight;

(J) Injection or blow-molding equipment for rubber or plastics, provided that no blowing agent other than compressed air, water, or carbon dioxide is used;

(K) Presses or molds used for curing, post-curing, or forming composite products and plastic products, provided that the blowing agent contains no VOC or chlorinated compounds;

(L) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives;

(M) Dredging wet spoils handling and placement;

(N) Graphic label and/or box labeling operations where the inks are applied by hand stamping or hand rolling;

(O) Ultraviolet disinfection processes;

(P) The cleaning and/or deburring of metal products where all tumblers are used without abrasive blasting;

(Q) Ozone generators and ozonation equipment;

(R) Emissions from the storage and application of road salt (calcium chloride or sodium chloride);

(S) Process emissions from sources which are located at private, public, or vocational education institutions, where the emissions are primarily the result of teaching and training exercises, and the institution is not engaged in the manufacture of products for commercial sale;

(T) Degreasing units which exclusively use caustics (e.g., potassium hydroxide and sodium hydroxide);

(U) Equipment used for hydraulic or hydrostatic testing with water-based hydraulic fluids;

(V) Storage tanks, reservoirs, pumping and handling equipment, and control equipment used to exclusively vent such equipment of any size, limited to soaps, lubricants, hydraulic fluid, vegetable oil, grease, animal fat, aqueous salt solutions or other materials and processes using appropriate lids and covers where there is no generation of objectionable odor or airborne particulate matter or toxic air pollutants listed in OAR chapter 340, division 247;

(W) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons where annual emissions are less than or equal to the de minimis levels;

(X) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids;

(Y) Ultraviolet curing processes, to the extent that toxic air contaminants as defined in OAR chapter 340, division 247 are not emitted;

(Z) Contaminant detectors, sampling devices and recorders;

(AA) Environmental chambers and humidity chambers using only gases that are not toxic air contaminants listed in OAR chapter 340, division 247;

(BB) Lithographic printing equipment which uses laser printing;

(CC) Equipment used exclusively for conveying and storage of plastic pellets that don't break down or degrade and are only used for indoor manufacturing;

(DD) Gas cabinets using only gasses that are not regulated air pollutants;

(EE) Salt baths using nonvolatile salts and not used in operations which result in air emissions;

(FF) Paper shredding and carpet and paper shearing, fabric brushing and sueding as well as associated conveying systems, baling equipment, and control equipment venting such equipment. This exemption does not include carpet and fabric recycling operations;

(GG) Hammermills used exclusively to process aluminum and/or tin cans, and control equipment exclusively venting such equipment;

(HH) Drop hammers or hydraulic presses for forging or metal working; or

(II) Concrete application, and installation.

~~(a) Would not increase emissions from the source above the PSEL by more than the de minimis emission level defined in OAR 340-200-0020 for sources required to have a permit;~~

~~(b) Would not increase emissions from the source above the netting basis by more than or equal to the SER;~~

~~(c) Would not increase emissions from any new, modified, or replaced device, activity or~~

~~process, or any combination of devices, activities or processes at the source by more than the de minimis levels defined in OAR 340-200-0020;~~

~~(d) Would not be used to establish a federally enforceable limit on the potential to emit; and~~

~~(e) Would not require a TACT determination under OAR 340-226-0130 or a MACT determination under OAR 340-244-0200; and~~

~~(f) Is not required to obtain a permit under OAR 340 division 216.~~

(2) Type 2 changes include construction or modification ~~of sources or air pollution control devices where such a change meets the criteria in subsections (a) through (f):~~ for which the owner or operator is not required to obtain a permit or permit modification under OAR chapter 340, division 216, and where the construction or modification would:

(a) Have emissions from any new, modified, or replaced device or activity, or any combination of devices or activities, of less than the SER defined in OAR 340-200-0020;

(b~~a~~) ~~Would n~~Not result in an increase of emissions from the source above ~~the~~ any PSEL; ~~by more than the de minimis level defined in OAR 340-200-0020 for sources required to have a permit;~~

(c~~b~~) ~~Would n~~Not result in an increase of emissions from the source above the netting basis by more than or equal to the SER;

~~(c) Would not increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than or equal to the SER;~~

(d) ~~Would n~~Not be used to establish a federally enforceable limit on the potential to emit;

(e) Be used to establish a state-only enforceable limit on the potential to emit;

(f~~e~~) ~~Would n~~Not require a TACT determination under OAR 340-226-0130 or a MACT determination under OAR 340-244-0200; and

(g~~f~~) Not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202 for a new or replaced device or activity. ~~Is not required to obtain a permit under OAR 340 division 216.~~

(3) Type 3 changes include construction or modification where the construction or modification would:~~of sources or air pollution control devices where such a change does not qualify as a Type 4 change under section (4) and:~~

(a) Have emissions from any new, modified, or replaced device or activity, or any combination of devices or activities, of more than or equal to the SER defined in OAR 340-200-0020;

(b) Result in an increase of emissions from the source above any PSEL before applying unassigned emissions or emissions reduction credits available to the source but less than the SER after applying unassigned emissions or emissions reduction credits available to the source;

(c) Be used to establish a federally enforceable limit on the potential to emit;

(d) Require a TACT determination under OAR 340-226-0130 or a MACT determination under 340-244-0200; or

(e) Not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202 for a new or replaced device or activity.

~~(a) Would increase emissions from the source above the PSEL by more than the de minimis emission level defined in OAR 340-200-0020 before applying unassigned emissions or emissions reduction credits available to the source but less than the SER after applying unassigned emissions or emissions reduction credits available to the source for sources required to have a permit;~~

~~(b) Would increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than the SER but are not subject to OAR 340-222-0041(4);~~

~~(c) Would be used to establish a federally enforceable limit on the potential to emit; or~~

~~(d) Would require a TACT determination under OAR 340-226-0130 or a MACT determination under 340-244-0200.~~

(4) Type 4 changes include construction or modification subject to New Source Review under OAR chapter 340, division 224.~~of sources or air pollution control devices where such a change or changes would increase emissions from the source above the PSEL, after applying unassigned emissions or emissions reduction credits available to the source, or netting basis of the source by more than the SER.~~

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 except for OAR 340-210-0225(2)(e).

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040, 468A.050, ORS 468A.055, 468A.070 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.035, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-210-0220
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0820
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0030
DEQ 4-1993, f. & cert. ef. 3-10-93

DEQ 5-1989, f. 4-24-89, cert. ef. 5-1-89
DEQ 15, f. 6-12-70, ef. 9-1-70

340-210-0230
Notice of Construction and Approval of Plans: Notice to Construct Application

(1) An application for any type of change must meet the requirements of the rules that were in effect on the date the complete application was submitted.

(2) Any person proposing a Type 1 or 2 change must submit a notice of construction application using electronic forms provided by DEQ, unless otherwise approved in writing by DEQ ~~provide notice~~ and applicable fees in OAR 340-216-8020 to DEQ before undertaking such construction~~ng~~ or modification~~ying a stationary source or air pollution control device~~. The notice of construction application ~~notice must be in writing on a form supplied by DEQ and~~ must include the following information, as applicable, for present or anticipated operating conditions:

(a) Name, address, tax lot, and nature of business;

(b) Name of local person responsible for compliance with these rules;

(c) Name of person authorized to receive requests for data and information;

(d) The type of construction or modification as defined in OAR 340-210-02250;

(e) A description of the proposed construction~~ed,~~ or modification~~ed source~~;

(f) A description of the production processes and a related flow chart for the proposed construction~~ed~~ or modification~~ed source~~;

(g) A plot plan showing the location and height of the proposed construction~~ed~~ or modification, and ~~ed source. The plot plan must also indicate~~ the nearest residential ~~or~~and commercial properties~~y~~;

(h) Production, throughput, or material usage;

(i~~h~~) Type and quantity of fuels used;

(j~~i~~) The ~~change in the~~ amount, nature and duration of regulated pollutant emissions from the proposed construction or modification and any proposed change in emissions with supporting calculation, except for equipment listed in OAR 340-210-0225(1)(b);

(k~~j~~) Plans and specifications for air pollution control devices and facilities and their relationship to the production process, including estimated efficiency of air pollution control devices ~~under present or anticipated operating conditions~~;

(l~~k~~) Any information on pollution prevention measures and cross-media impacts the owner or operator wants DEQ to consider in determining applicable control requirements and

evaluating compliance methods;

(ml) A list of any requirements applicable to the ~~new~~ construction or modification;

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

(on) Amount and method of refuse disposal; ~~and~~

(po) Land Use Compatibility Statement(s) when required by OAR chapter 340, division 018: ~~signed by a local (city or county) planner either approving or disapproving construction or modification to the source if required by the local planning agency.~~

(A) Signed by the applicable local planning jurisdictions(s), determining that construction or modification is compatible with the applicable local planning jurisdiction's acknowledged comprehensive plan. If DEQ receives a LUCS which states that the proposed action is incompatible with the acknowledged comprehensive plan, DEQ shall notify the applicant that the application cannot be processed; or

(B) If the local planning jurisdiction declines to provide a LUCS determination in response to a request for a LUCS, the owner or operator must provide DEQ with its own analysis to demonstrate that the proposed action complies with all applicable statewide planning goals;

(q) Anticipated date of the commencement of construction (i.e., breaking ground); and

(r) Anticipated date of construction or modification completion.

(3) In addition, any person proposing a Type 2 or Type 3 change for a new or replaced device or activity must also submit an air quality analysis for any pollutants that are emitted above the de minimis emission level demonstrating that the emissions, including reductions due to air pollution control devices or permitted limits on production capacity, from the individual device or activity will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202.

(4) Any person proposing a Type 3 change must:

(a) Submit an application for either a new or modified Basic ACDP, a Construction ACDP, a new or modified Simple ACDP, or a new or modified Standard ACDP, whichever is appropriate; or

(b) If the owner or operator of a source assigned to a General ACDP still qualifies for the General ACDP after the Type 3 change is approved, submit the information required in OAR 340-210-0230(2).

(52) Any person proposing a Type ~~3 or~~ 4 change must comply with OAR chapter 340, division 224 and must submit an application for either a Ceonstruction ACDP, or a new or

modified Standard ACDP~~permit, or permit modification~~, whichever is appropriate.

(6) Additional information. If DEQ determines that additional information or corrections are needed for consideration of any type of proposed construction or modification, DEQ will provide the applicant with a written request to provide such information by a reasonable date.

(7) If DEQ determines it is not able to approve the applicant's submittal, or if the applicant does not timely provide additional information or corrections requested by DEQ under section (6), then in addition to any other remedies available, DEQ may:

(a) Return the application;

(b) Retain any applicable fees; and

(c) Issue a proposed denial of the application.

(8~~3~~) ~~The owner of operator~~ A person who has submitted an application under this rule must notify DEQ of any corrections and revisions to the plans and specifications that would impact emissions upon becoming aware of the changes. If the correction or revision changes the type of Notice of Construction, the person must submit the appropriate application.

(9~~4~~) Where a permit issued in accordance with OAR chapter 340, divisions 216 or 218 includes construction approval for future changes for operational flexibility, the notice requirements in this rule are waived for the approved changes.

[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, 468A.025, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.035, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
History:
DEQ 17-2020, amend filed 09/21/2020, effective 09/21/2020
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-210-0240
Notice of Construction and Approval of Plans: Construction Approval

(1) Approval to Construct:

(a) For Type 1 changes:

(A) Under OAR 230-210-0225(1)(b), the owner or operator of a source may proceed with the construction or modification immediately after notifying ~~10 calendar days after~~ DEQ.

(B) Under OAR 230-210-0225(1)(a), the owner or operator of a source may proceed with the construction or modification immediately after notifying DEQ unless they request confirmation that the proposed construction or modification qualifies as a Type 1 change. ~~receives the notice required in OAR 340-210-0230 or on the date that~~ DEQ has 30 calendar days from receipt of the written request, with a complete notice application, to provide written approval~~s~~ of the proposed construction or modification ~~in writing~~, ~~whichever is sooner, unless DEQ~~or notify~~ies~~ the owner or operator in writing that the proposed construction or modification ~~is~~does not qualify as a Type 1 change.

(b) For Type 2 changes, the owner or operator of a source may proceed with the construction or modification 60 calendar days after DEQ receives the complete notice application and fees required in OAR 340-210-0230 or on the date that DEQ approves the proposed construction or modification in writing, whichever is sooner, unless DEQ notifies the owner or operator in writing that the proposed construction or modification ~~is~~ does not qualify as a Type 2 change.

(c) For Type 3 changes, the owner or operator of a source must obtain either:

(A) ~~either a~~A new or modified Basic ACDP, Construction ACDP, a new or modified Simple ACDP, or a new or modified Standard ACDP, whichever is appropriate, in accordance with OAR chapter 340, division 216 before proceeding with the construction or modification;~~.~~ or

(B) A new Simple or Standard ACDP, whichever is appropriate, in accordance with OAR chapter 340, division 216 before proceeding with the construction or modification if the source no longer qualifies for its assigned General ACDP(s).

(d) For Type 4 changes, the owner or operator of a source must obtain either a Construction ACDP or a new or modified Standard ACDP in accordance with OAR chapter 340, division 216 before proceeding with the construction or modification. ~~Type 4 changes may also be subject to OAR 340 division 224, New Source Review requirements.~~

(2) Upon DEQ approval, the owner or operator of a source must construct or modify and operate the source in accordance with the approved plans and specifications, including any corrections or revisions approved by DEQ, previously submitted in the application required under OAR 340-210-0230.

(3~~2~~) Approval to construct or modify does not relieve the owner or operator of a source of the obligation of complying with applicable requirements.

(4) The owner or operator of a source that receives approval to construct or modify must commence construction within 18 months of approval, or other date approved in writing by DEQ.

(a) Construction or modification approval terminates and is invalid for the following reasons:

(A) Construction or modification is not commenced within 18 months after DEQ issues such approval, by an alternative deadline established by DEQ under this section, or by the deadline approved by DEQ in an extension under subsection (b);

(B) Construction or modification is discontinued for a period of 18 months or more; or

(C) Construction or modification is not completed within 18 months of the anticipated date of construction completion included in the application.

(b) The owner or operator may submit a request to extend the construction or modification commencement deadline by submitting a written, detailed explanation of why the source could not commence construction or modification within the initial 18-month period. DEQ may grant, for good cause, one 18-month construction or modification approval extension.

(5~~3~~) Notice of Completion. Unless otherwise specified in the C~~c~~onstruction ACDP or approval, the owner or operator of a source must notify DEQ in writing that the construction or modification has been completed using a form furnished by DEQ. Unless otherwise specified, the notice is due 30 days after completing the construction or modification. The notice of completion must include the following:

(a) The date of completion of construction or modification;

(b) Whether the construction or modification was completed in accordance with approved plans, specifications and any corrections or revisions thereto under OAR 340-210-0230, such as but not limited to:

(A) Make, model, and identification name or number of the constructed device or activity, or any combination of devices or activities;

(B) Location of the constructed device or activity, or any combination of devices or activities;

(C) Exhaust parameters (e.g., stack height, diameter, temperature, flowrate, volume or area source dimensions); and

(c~~b~~) The date the stationary source, device, activity, ~~process,~~ or air pollution control device was or will be put in operation.

(6~~4~~) Order Prohibiting Construction or Modification. If at any time, DEQ determines that the proposed construction is not in accordance with applicable statutes, rules, regulations, and orders, DEQ will issue an order prohibiting the construction or modification. The order prohibiting construction or modification will be forwarded to the owner or operator of the source by certified mail.

(7~~5~~) Hearing. An owner or operator of a source ~~person~~ against whom an order prohibiting construction or modification is directed may request a contested case hearing within 20 days from the date of mailing the order. The request must be in writing, state the grounds for hearing, and be mailed to the Director of DEQ. The hearing will be conducted pursuant to the applicable provisions ~~in~~ of ORS chapter 183 and OAR chapter 340, division 11 ~~of this chapter~~.

[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, 468A.025, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
Statutes/Other Implemented: ORS 468A. 025, 468A.035, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
History:
DEQ 17-2020, amend filed 09/21/2020, effective 09/21/2020
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-210-0250
Notice of Construction and Approval of Plans: Approval to Operate

(1) The approval to construct does not provide approval to operate the constructed, ~~or~~ modified, or replaced stationary source or air pollution control device unless otherwise allowed by section (2) or (3) or under the applicable ACDP (OAR chapter 340, division 216) or Oregon Title V Operating Permit programs (OAR chapter 340, division~~s 216~~ and 218).

(2) Type 1 and 2 changes:

(a) For sources that are not required to obtain a permit in accordance with OAR 340-216-0020, Type 1 and 2 changes may be operated without further approval subject to the conditions of DEQ's approval to construct provided in accordance with OAR 340-210-0240.

(A) Approval to operate does not relieve the owner of the obligation of complying with applicable requirements that may include but are not limited to the general opacity standards in OAR 340-208-0110 and general particulate matter standards in OAR 340-226-0210 and OAR 340-228-0210.

(B) If required by DEQ as a condition of the approval to construct or at any other time in accordance with OAR 340-212-0120, the owner or operator must conduct testing or monitoring to verify compliance with applicable requirements. All required testing must be performed in accordance with OAR 340-212-0140.

(C) The owner or operator must register the air contaminant source with DEQ if required as a condition of the approval to construct or at any other time in accordance with OAR 340-210-0100.

~~(b) For new sources that are required to obtain an ACDP in accordance with OAR 340-216-0020, the ACDP, which allows operation, is required before operating the newly constructed equipment.~~

(b~~c~~) For sources currently operating under an ACDP, Type 1 and 2 changes may be operated without further approval unless the ACDP specifically prohibits the operation.

(c~~d~~) For sources currently operating under an Oregon Title V Operating Permit, Type 1 and 2 changes may only be operated in accordance with OAR 340-218-0190(2).

(3) Type 3 and 4 changes:

(a) For new sources, or sources that have not been required to obtain a permit, Type 3 ~~or 4~~ changes require the owner or operator to obtain a Construction, Basic, ~~standard~~ General, ~~Basic,~~ Simple, or Standard ACDP, whichever is appropriate, before operation of the approved changes.

(b) For sources currently operating under a General ACDP, a Type 3 change may be operated under the assigned General ACDP if the source still qualifies for the General ACDP. Otherwise, the owner or operator must obtain a new Simple or Standard ACDP before operation of the approved changes.

(c~~b~~) For sources currently operating under a~~n~~ Basic, Simple or Standard ACDP, approval to operate a Type 3 ~~or 4~~ change~~s~~ will require the owner or operator to obtain a new or modified Basic ACDP, a new or modified Simple ACDP, or a new or modified ~~s~~Standard ACDP, in accordance with OAR chapter 340, division 216 before operation of the approved changes. All current ACDP terms and conditions remain in effect until the new or modified ACDP is issued ~~modified~~.

(d) Type 4 changes require the owner or operator to obtain a new or modified Standard ACDP in accordance with OAR chapter 340, division 216 before operation of the approved changes.

(e~~c~~) For sources currently operating under an Oregon Title V Operating Permit, ~~approval to operate~~ Type 3 or 4 changes may only be operated ~~must be~~ in accordance with OAR 340-218-0190(2) unless a permit modification is required.

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, 468A.025, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
Statutes/Other Implemented: ORS 468A. 025, 468A.035, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 1-2012, f. & cert. ef. 5-17-12
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

Division 214
STATIONARY SOURCE REPORTING REQUIREMENTS

340-214-0110
Reporting: Request for Information

All owners or operators of stationary sources must provide ~~in a reasonably timely manner~~ any and all information and analysis, including an air quality analysis of the source, that DEQ reasonably requires for the purpose of regulating stationary sources. DEQ will provide

the source with a written request to provide such information to DEQ by a reasonable date. Such information may be required on a one-time, periodic, or continuous basis and may include, but is not limited to, information necessary to:

(1) Issue a permit and ascertain compliance or noncompliance with the permit terms and conditions;

(2) Ascertain applicability of any requirement;

(3) Ascertain compliance or noncompliance with any applicable requirement;

(4) Determine whether a source's emissions may cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202; and

(54) Incorporate monitoring, recordkeeping, reporting, and compliance certification requirements into a permit.

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 & 468A
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0300
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93

340-214-0114
Reporting: Records; Maintaining and Reporting

(1) When notified by DEQ, any person owning or operating a source within the state must keep and maintain written records of the nature, type, and amounts of emissions from such source and other information DEQ may require in order to determine whether the source is in compliance with applicable emission rules, limitations, or control measures.

(2) The records must be prepared in the form of a report and submitted to DEQ on an annual, semi-annual, or more frequent basis, as requested in writing by DEQ. Submittals must be filed at the end of the first full period after DEQ's notification to such persons owning or operating a stationary air contaminant source of these recordkeeping requirements. Unless otherwise required by rule or permit, semi-annual periods are Jan. 1 to June 30, and July 1 to Dec. 31. A more frequent basis for reporting may be required due to noncompliance or if necessary to protect human health or the environment.

(3) The required reports must be completed on forms approved by DEQ and submitted within

30 days after the end of the reporting period, unless otherwise authorized by permit.

(4) When a due date for submittal falls on a weekend or holiday, the submittal is not due until the next succeeding business day.

(5~~4~~) All reports and certifications submitted to DEQ under OAR chapter 340, division~~s~~ 200 through division 271~~to 264~~ must accurately reflect the monitoring, record keeping and other documentation held or performed by the owner or operator.

(6~~5~~) The owner or operator of any source required to obtain a permit under OAR chapter 340, division 216 or 218 must retain records of all required monitoring data and supporting information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. ~~For the owner or operator of a source permitted under OAR 340 division 216, this requirement takes effect on July 1, 2015.~~

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, 468A.050 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.050 & 468A.310
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-212-0160
DEQ14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1140
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0046
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 48, f. 9-20-72, cert. ef. 10-1-72
DEQ 44(Temp), f. & cert. ef. 5-5-72

340-214-0130
Reporting: Information Exempt from Disclosure

(1) Pursuant to the provisions of ORS 192.311~~410~~ to 192.478~~505~~, all information submitted to DEQ is subject to inspection upon request by any person unless such information is determined to be exempt from disclosure pursuant to section (2) or (3).

(2) If an owner or operator claims that any writing, as that term is defined in ORS 192.311~~410~~, is confidential or otherwise exempt from disclosure, in whole or in part, the owner or operator must comply with the following procedures:

(a) The writing must be clearly marked with a request for exemption from disclosure. For a multi-page writing, each page must be so marked.

(b) The owner or operator must state the specific statutory provision under which it claims exemption from disclosure and explain why the writing meets the requirements of that provision.

(c) For writings that contain both exempt and non-exempt material, the proposed exempt material must be clearly distinguishable from the non-exempt material. If possible, the exempt material must be arranged so that it is placed on separate pages from the non-exempt material.

(3) For a writing to be considered exempt from disclosure as a "trade secret," it must meet all of the following criteria:

(a) The information cannot be patented;

(b) It must be known only to a limited number of individuals within a commercial concern who have made efforts to maintain the secrecy of the information;

(c) It must be information that derives actual or potential economic value from not being disclosed to other persons;

(d) It must give its users the chance to obtain a business advantage over competitors not having the information; and

(e) It must not be emissions data.

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 192.430, 468.020 & 468A.050
Statutes/Other Implemented: ORS 192.410 - 192.505, 468.020, 468A.025 & 468A.050
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0400
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93

340-214-0330
Excess Emissions and Emergency Provision: All Other Excess Emissions

(1) This rule applies to~~For~~ all ~~other~~ excess emissions not addressed in OAR 340-214-0310, 340-214-0320, ~~or~~and 340-214-0360.~~, the following requirements apply:~~

(a) The owner or operator of a large source, as defined by OAR 340-214-0010, must immediately notify DEQ of the first onset per calendar day of any excess emissions event, unless otherwise specified by a permit condition.

(b) The owner or operator of a small source, as defined by OAR 340-214-0010, need not immediately notify DEQ of excess emissions events unless otherwise required by a permit

condition, written notice by DEQ, or if the excess emission is of a nature that could endanger public health.

(c) Additional reporting and recordkeeping requirements are specified in OAR 340-214-0340.

(2)~~(a)~~ During any period of excess emissions, ~~DEQ may require that an~~the owner or operator of the source must immediately reduce emissions to the greatest extent practicable or cease operation of the equipment or facility until the condition causing the excess emissions has been corrected or brought under control. The owner or operator must cease operation of the equipment or facility within 8 hours of the beginning of the period of excess emissions unless:~~. DEQ will consider the following factors:~~

(a) Ceasing operation could result in physical damage to the equipment or facility;

(b) Ceasing operation could cause injury to employees; or

(c) Emissions associated with shutdown and the subsequent startup will exceed those emissions resulting from continued operation.

(3) An owner or operator may request continued operations under the conditions in section (2) by submitting to DEQ a written request to continue operation along with the following information within 8 hours of the beginning of the period of excess emissions:

(a) A description or plan of how the owner or operator will minimize the excess emissions to the greatest extent practicable;

(b) A plan and timeline for returning the equipment or facility back to the applicable compliant emission limits as soon as possible; and either:

(A) Information verifying that reducing or ceasing operation could result in physical damage to the equipment or facility or injury to employees; or

(B) Calculations of emissions associated with shutdown and the subsequent startup and emissions resulting from continued operation.

(4)(a) If DEQ disapproves the request to continue operation, the owner or operator must cease operation of the equipment or facility within one hour of receiving DEQ's written disapproval (e.g., email or telephone conversation with email backup), until the condition causing the excess emissions has been corrected or brought under control.

(b) If DEQ approves the request to continue operation, the owner or operator must follow the approved plans and timeline to minimize excess emissions and return the equipment or facility back to the applicable compliant emission limits as required in DEQ's written approval (e.g., email or telephone conversation with email backup).

(c) The owner or operator must report excess emissions under OAR 340-214-0340 within 5 days of the date of the event.

~~(a) The potential risk to the public or environment;~~

~~(b) Whether shutdown could result in physical damage to the equipment or facility, or cause injury to employees;~~

~~(c) Whether any Air Pollution Alert, Warning, Emergency, or yellow or red woodstove curtailment period exists; and~~

~~(d) Whether continued excess emissions were avoidable.~~

~~(3) If there is an on-going period of excess emissions, the owner or operator must cease operation of the equipment or facility no later than 48 hours after the beginning of the excess emission period, if the condition causing the emissions is not corrected within that time. The owner or operator does not have to cease operation if DEQ approves procedures to minimize excess emissions until the condition causing the excess emissions is corrected or brought under control. DEQ will consider the following before approving the procedures:~~

~~(a) Why the condition causing the excess emissions cannot be corrected or brought under control, including equipment availability and difficulty of repair or installation; and~~

~~(b) Information as required in OAR 340-214-0310(2)(b), (c), and (d) or 340-214-0320(1)(b), (c), and (d), as appropriate.~~

~~(4) DEQ will approve the procedures if it determines that they are consistent with good pollution control practices, will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur.~~

(5) ~~The owner or operator must record all excess emissions in the excess emissions log as required in OAR 340-214-0340(3).~~ Notwithstanding section (2), ~~A~~at any time during the period of excess emissions, DEQ may require the owner or operator to cease operation of the equipment or facility~~, in accordance with section (2)~~. ~~Approval of these procedures does not shield the owner or operator from an enforcement action, but DEQ will consider whether the procedures were followed in determining whether an enforcement action is appropriate.~~

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.040 & 468A.310
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1430
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 24-1994, f. & cert. ef. 10-28-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0370
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91

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) Owners or operators of ~~S~~sources in any one of the categories in OAR 340-216-8010 must obtain a permit. Source categories are not listed in alphabetical order. 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 owner or operator of the source must obtain a Simple or Standard ACDP. DEQ may determine that a source is ineligible for a Basic ACDP or a General ACDP based upon the considerations in OAR 340-216-0025(7). ~~Source categories are not listed in alphabetical order.~~

(a) ~~The~~ Owners or operators of commercial and industrial sources listed in OAR 340-216-8010 Part A must obtain a Basic ACDP under 340-216-0056 unless the person~~source~~ chooses to obtain a General, Simple or Standard ACDP for the source. 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) Owners or operators of ~~S~~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) Owners or operators of ~~S~~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 (3)(c~~b~~) or DEQ has granted

an exemption from the requirement to obtain an ACDP under subsection (3)(df). No person may continue to operate an air contaminant source if the ACDP expires, or is terminated, denied, or revoked; except as provided in OAR 340-216-0082.

(a) The owner or operator must construct and operate their facility in accordance with the approved plans and specifications, including any corrections or revisions approved by DEQ, previously submitted in the application required under OAR 340-216-0040.

(ba) For portable sources, a ~~single~~ permit may be issued or assigned by:

(A) DEQ for operation~~g at~~ in any area of the state except Lane County; or

(B) LRAPA for operation in Lane County. ~~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.~~

(cb) ~~An air contaminant~~The owner or operator of a source required to obtain an ACDP or ACDP Attachment ~~under~~ in order to comply with a NESHAP under OAR chapter 340, division 244 or a NSPS under OAR chapter 340, 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, subject to paragraphs (A) and (B).

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

(Bd) 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.

(de) 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~~, unless the source may be placed onsite and operated without any other construction necessary and obtains an Oregon Title V Operating Permit prior to operation.

(5) ~~No person may modify~~The owner or operator of a~~ny~~ source that has been issued an ACDP may not modify the source without first complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(6) ~~No person may modify~~The owner or operator of a~~ny~~ source required to have an ACDP may not make modifications to ~~such that~~ the source ~~becomes~~ that would result in the source becoming 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~~The owner or operator of a source required to have an ACDP may not 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) The owner or operator of a source that has been issued an ACDP may not violate any conditions included in the ACDP.

(~~9~~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 340-200-0040 with the exception of all references to toxic air contaminants and OAR chapter 340, division 245.

NOTE: Tables referenced are in OAR 340-216-8010 and 340-216-8020.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040, 468A.155 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.040, 468A.135 - 468A.155 & 468A.310
History:
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 126-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 14-2011, f, & cert. ef. 7-21-11
DEQ 13-2011, f. & cert. ef. 7-21-11
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11
DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 7-2007, f. & cert. ef. 10-18-07
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720
DEQ 22-1996, f. & cert. ef. 10-22-96

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

340-216-0025
Types of Permits

(1) Construction ACDP:

(a) A Construction ACDP may be used for approval of Type 3 changes specified in OAR 340-210-0225 at a source subject to the ACDP permit requirements in this division.

(b) A Construction ACDP is required for Type 3 changes specified in OAR 340-210-0225 at sources subject to the Oregon Title V Operating Permit requirements.

(2) General ACDP. A General ACDP is a permit for a category of sources for which individual permits are unnecessary in order to protect the environment, as determined by DEQ. An owner or operator of a source may be assigned to a General ACDP if DEQ has issued a General ACDP for the source category and:

(a) The source meets the qualifications specified in the General ACDP;

(b) DEQ determines that the source has not had ongoing, recurring, or serious compliance problems; and

(c) DEQ determines that a General ACDP would appropriately regulate the source.

(3) Short Term Activity ACDP. A Short Term Activity ACDP is a letter permit that authorizes the activity and includes any conditions placed upon the method or methods of operation of the activity. DEQ may issue a Short Term Activity ACDP for activities included in OAR 340-216-0054~~unexpected or emergency activities, operations, or emissions~~.

(4) Basic ACDP. A Basic ACDP is a permit that authorizes the regulated source to operate in conformance with the rules contained in OAR chapter 340, divisions 200 to 268.

(a) Owners and operators of sources and activities listed in Part A of OAR 340-216-8010 must at a minimum obtain a Basic ACDP.

(b) Any owner or operator of a source required to obtain a Basic ACDP may choose to obtain either a Simple or Standard ACDP.

(5) Simple ACDP.

(a) Owners and operators of sources and activities listed in OAR 340-216-8010 Part B that do not qualify for a General ACDP and are not required to obtain a Standard ACDP must, at a minimum, obtain a Simple ACDP. The owner or operator ~~Any~~ of a source required to obtain a Simple ACDP may choose to obtain a Standard ACDP. ~~DEQ may determine that a source is ineligible for a Simple ACDP and must obtain a Standard ACDP based upon, but not limited to, the following considerations:~~

~~(A) The nature, extent, and toxicity of the source's emissions;~~

~~(B) The complexity of the source and the rules applicable to that source;~~

~~(C) The complexity of the emission controls and potential threat to human health and the environment if the emission controls fail;~~

~~(D) The location of the source; and~~

~~(E) The compliance history of the source.~~

(b) A Simple ACDP is a permit that contains:

(A) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements;

(B) ~~Generic~~ PSELs at less than the SER for all regulated pollutants emitted at more than the de minimis emission level according to OAR chapter 340, division 222; and

(C) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary.~~; and~~

~~(D) A permit duration not to exceed 5 years.~~

(6) Standard ACDP:

(a) Applicability.

(A) The owner or operator of a source listed in Part C of OAR 340-216-8010 must obtain a Standard ACDP;~~.~~

(B) The owner or operator of a source listed in Part B of OAR 340-216-8010 that does not qualify for a General ACDP or Simple ACDP must obtain a Standard ACDP;~~.~~

(C) The owner or operator of a source not required to obtain a Standard ACDP may choose to apply ~~to obtain~~for a Standard ACDP.

(b) A Standard ACDP is a permit that contains:

(A) All applicable requirements, including general ACDP conditions for incorporating generally applicable requirements;

(B) ~~Source specific~~ PSELs for all regulated pollutants emitted at more than the de minimis emission level ~~or Generic PSEL levels, whichever are applicable, as specified in~~ according to OAR chapter 340, division 222; and

(C) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary.~~; and~~

~~(D) A permit duration not to exceed 5 years.~~

(7)(a) Notwithstanding the other provisions of this division that establish the eligibility of a source for different types of ACDPs, DEQ may determine, pursuant to the standards described in subsection (b), that the owner or operator of a source is ineligible for certain types of ACDP and must be issued a different type of ACDP;

(b) DEQ will make a determination about which type of ACDP that the owner or operator of source must obtain based upon the following considerations:

(A) The nature, extent, toxicity and impact on human health and the environment of the source's emissions;

(B) The complexity of the source and the rules applicable to that source;

(C) The complexity of the emission controls, potential threat to human health and the environment if the emission controls fail, and the source's capacity;

(D) The location of the source and its proximity to places where people live and work; and

(E) The compliance history of the source, including by the source's:

(i) Current corporate officers, managers, members of the board of directors, general partners or similar persons, provided that the person exercises or will exercise substantial control on behalf of or over the facility that is the subject of the application or permit;

(ii) Parent corporations, or similar business entities, that exercise substantial control over the facility that is the subject of the application or permit; and

(iii) Subsidiary corporations, or similar business entities, over which the applicant or permittee exercises substantial control.

[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.]

[NOTE: All tables are found in OAR 340-216-8010, -8020, -8030.]

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.040 & 468A.310
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 22-1994, f. & cert. ef. 10-4-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0155
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 27-1991, f. & cert. ef. 11-29-91
DEQ 12-1987, f. & ef. 6-15-87
DEQ 3-1986, f. & ef. 2-12-86
DEQ 11-1983, f. & ef. 5-31-83
DEQ 13-1981, f. 5-6-81, ef. 7-1-81
DEQ 23-1980, f. & ef. 9-26-80
DEQ 20-1979, f. & ef. 6-29-79
DEQ 125, f. & ef. 12-16-76
DEQ 107, f. & ef. 1-6-76, Renumbered from 340-020-0033
DEQ 63, f. 12-20-73, ef. 1-11-74
DEQ 47, f. 8-31-72, ef. 9-15-72

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 a complete application with the following general information, as applicable, ~~using forms provided by DEQ~~ in addition to any other information required for a specific permit type. Complete applications must be submitted using electronic forms provided by DEQ, unless otherwise approved in writing by DEQ:

(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 all emissions units, devices and activities that emit to the atmosphere, including any air pollution control devices, ~~air contaminant sources. The plot plan must also indicate~~ and the nearest residential and~~or~~ commercial properties~~y~~;

(F) Make, model, and identification name or number of each device, activity, and air pollution control device, if known;

(G) Exhaust parameters (e.g., stack height, diameter, temperature, flowrate, volume or area source dimensions) of each emissions unit, device, and air pollution control device that emits to the atmosphere;

(H~~F~~) The type and quantity of fuels used;

(I~~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;

(J~~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;

(K~~I~~) Estimated efficiency of air pollution control devices under present or anticipated operating conditions;

(L~~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);

(M~~K~~) ~~A~~ Land Use Compatibility Statement(s), when required by OAR chapter 340, division 018:

(i) ~~s~~Signed by the applicable local~~, city or county,~~ planninger jurisdiction(s), ~~either approving or disapproving~~ determining that construction or modification of the source is compatible with applicable local jurisdiction's acknowledged comprehensive plan~~, if required by the local planning agency~~. If DEQ receives a LUCS which states that the proposed action is incompatible with the acknowledged comprehensive plan, DEQ shall notify the applicant that the application cannot be processed;

(ii) If the local planning jurisdiction declines to provide a LUCS determination in response to a request for a LUCS, the owner or operator must provide DEQ with its own analysis to demonstrate that the proposed action complies with all applicable statewide planning goals;

(N) The most recent information reported through EPA's Toxics Release Inventory program

at the time of application submittal, if the source is subject to the program;

(O) An air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225, demonstrating that the emissions, including reductions due to air pollution control devices or permitted limits on production capacity, will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202;

(PL) Any information required by OAR chapter 340, divisions 222, 224, 225, and 245, including but not limited to control technology and analysis, and air quality impact analysis, conducted in accordance with the procedures in OAR chapter 340, division 225; and information related to offsets and net air quality benefit, if applicable;

(Q) Anticipated date of the commencement of construction (i.e., breaking ground); and

(R) Anticipated date of construction completion; and

(SM) Any other information requested by DEQ.

(b) Owners or operators must submit complete Aapplications 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 considerin accordance with the timelines provided in paragraph subsection (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 New Source Review, to allow DEQ adequate time to process the application and issue a permit before it is needed.

(2) Renewal Permit Renewals. Except for Short Term Activity ACDPs, aAny person who wants required to renew an existing permit must submit a complete application the information identified in section (1) using forms provided by DEQ, unless otherwise allowed in writing 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) The renewal application must include:

(A) All information identified in subsection (1)(a) that has changed since the last permit renewal or issuance;

(B) A complete list of all devices and activities, or any combination of devices and activities, including all air pollution control devices, and all categorically insignificant activities;

(C) 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;

(D) All changes to the source since the last permit issuance and all requirements applicable to those changes; and

(E) When required by DEQ, an air quality analysis, conducted in accordance with the

procedures in OAR chapter 340, division 225, demonstrating that the source's emissions, including reductions due to air pollution control devices or permitted limits on production capacity, will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202.

~~(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 General ACDP attachments within 30 days prior to expiration of the General ACDPs or General ACDP attachments.

(3) Permit Modifications.

(a) An owner or operator applying for a modification of a~~For~~ Basic, Simple ~~and~~ or Standard ACDP ~~modifications, the applicant~~ must provide the information in subsection (1)(a) relevant to the requested changes to the permit and a list of any ~~new~~ requirements applicable to those changes.

(b) ~~When preparing an application, the~~DEQ recommends that applicants for permit modifications ~~must also~~ consider the timelines provided in subsection (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 New Source Review, to allow DEQ adequate time to process the application and issue a permit before it is needed.

(c) When required by DEQ, the owner or operator must submit an air quality analysis demonstrating that the emissions, including reductions due to air pollution control devices or permitted limits on production capacity, will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202.

(4) Any ~~owner or operator~~person 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~~ Permit applications 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.~~

(6~~7~~) When a ~~A copy of~~ permit application~~s~~ is subject to Major NSR under OAR chapter 340, division 224, a copy of the permit application, including all supplemental and supporting information, must also be submitted directly to the EPA.

(7~~8~~) The name of the applicant on a permit application must be the legal name of the facility's owner, ~~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 Oregon Secretary of State Corporations Division, unless the applicant is an individual person that is operating the facility or applying for the permit, and is not doing so under an assumed business name.

(8~~9~~) All permit applications must include the appropriate fees as specified in OAR 340-216-8020 and OAR 340-216-8030.

(9~~10~~) Permit ~~A~~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.

(10~~1~~) Within 15 days after receiving the application, DEQ will preliminarily review the application to determine the adequacy of the information submitted, and:

(a) If DEQ determines that additional information is needed, DEQ will promptly ask the applicant for the needed information and provide the applicant with a written request to provide such information by a date, not to exceed a 60-day period;~~. 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) An applicant may request an extension of time from a deadline established in subsection (a) by providing DEQ with a written request 15 days prior to the submittal deadline. DEQ may grant an extension based on the following criteria:

(A) The applicant has demonstrated progress in completing the submittal; and

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

(c~~b~~) If~~, in the opinion of DEQ, additional measures are necessary to gather facts regarding~~

~~the application,~~ DEQ determines it is not able to approve the applicant's submittal, or if the applicant does not timely provide additional information or corrections requested by DEQ under subsection (a), then in addition to any other remedies available, DEQ may issue a proposed denial of the application under OAR 340-209-0080(6);

(d) ~~DEQ will notify the applicant that such measures will be instituted along with the timetable and procedures to be followed.~~ If DEQ has determined that additional information or corrections are necessary under subsection (a), and except as provided in subsection (c), DEQ ~~T~~the application will not ~~be~~ consider~~ed~~ the application to be complete for processing until DEQ has received the requested information; and~~necessary additional fact-finding measures are completed.~~

(e) When DEQ has determined that the information in ~~the~~ an application is ~~deemed~~ adequate for processing, DEQ will so notify the applicant in writing.

(1~~1~~2) If at any time while processing the permit application, DEQ determines that additional information is needed, DEQ will ~~promptly ask the applicant for the needed information~~ follow the procedures in section (10) to request such 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.~~

(1~~2~~3) 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 chapter 340, division 245.

NOTE: Tables referenced are in OAR 340-216-8010 and 340-216-8020.

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11 DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0020 & 340-014-0030
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1770
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0175
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 13-1988, f. & cert. ef. 6-17-88
DEQ 20-1979, f. & cert. ef. 6-29-79

DEQ 107, f. & cert. ef. 1-6-76, Renumbered from 340-020-0033
DEQ 63, f. 12-20-73, cert. ef. 1-11-74
DEQ 47, f. 8-31-72, cert. ef. 9-15-72
DEQ 42, f. 4-5-72, cert. ef. 4-15-72

340-216-0054
Short Term Activity ACDPs

(1) Applicability. DEQ may issue a Short Term Activity ACDP for the following types of activities:

(a) Activities that do not require a Title V permit under OAR chapter 340, division 218;

(b) Unexpected or emergency activities; or

(c) Operation of a pilot or an exploratory emissions unit.

(2~~1~~) Application requirements. Any person requesting a Short Term Activity ACDP must apply in writing, fully describing the ~~unexpected or emergency activity requiring an ACDP and the~~ proposed activities, operations, and emissions. The application must include the ~~fees specified in section (2).~~following:

(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) Make, model, and identification name or number of each device, activity, and air pollution control device;

(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 rates, showing calculation procedures;

(h) Land use approval;

(i) Anticipated date of the commencement of construction (i.e., breaking ground);

(j) Anticipated date of construction completion; and

(k) When required by DEQ, an air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225, demonstrating that the source's emissions will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard

adopted under OAR chapter 340, division 202.

(32) Fees. Applicants for a Short Term Activity ACDP must pay the fees in OAR 340-216-8020.

(43) Permit content:

(a) A Short Term Activity ACDP must include conditions that ensure adequate protection of property and preservation of public health, welfare, and resources.

(b) A Short Term Activity ACDP may not include a PSEL for any air contaminants discharged as a result of the permitted activity.

(c) A Short Term Activity ACDP will automatically terminate 60 days from the date of issuance and may not be renewed. The permittee may request that the Short Term Activity ACDP be renewed one time, for an additional 60-day period by notifying DEQ in writing at least 14 days before the expiration of the Short Term Activity ACDP. If DEQ approves the renewal, no additional permit fees are required.

(5) If a Short Term Activity ACDP is issued to a permitted source, the permittee must include emissions from the short term activity when determining compliance with PSELs under OAR chapter 340, division 222 and Source Risk Limits under OAR chapter 340, division 245.

(64) Permit issuance public notice procedures. A Short Term Activity ACDP requires public notice as a Category I permit action under OAR chapter 340, division 209.

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.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0050
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 42, f. 4-5-72, ef. 4-15-72
DEQ 42, f. 4-5-72, ef. 4-15-72

340-216-0056
Basic ACDPs

(1) Application requirements. Any person requesting a Basic ACDP must submit an application according to OAR 340-216-0040 and provide the information specified in OAR

~~340-216-0040(1)~~.

(2) DEQ may determine that a source is ineligible for a Basic ACDP based upon the considerations in OAR 340-216-0025(7).

(3~~2~~) Fees. Applicants for a new Basic ACDP must pay the fees in OAR 340-216-8020.

(4~~3~~) Permit content:

(a) A Basic ACDP will contain only the most significant and relevant rules applicable to the source;

(b) A Basic ACDP may not contain a PSEL;

(c) A Basic ACDP may contain any physical or operational limitation, including any combination of the use of control devices, restrictions on hours of operation, or restrictions on the type or amount of materials combusted, stored, or processed, as permit conditions to limit short term emissions for all devices and activities that require controls or limitations to ensure the source's emission will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202;

(d~~c~~) A Basic ACDP will require that a simplified annual report be submitted to DEQ; and

(e~~d~~) A Basic ACDP may be issued for a period not to exceed ten years.

(5~~4~~) Permit issuance public notice procedures. A Basic ACDP requires public notice as a Category I permit action according to OAR chapter 340, division 209.

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.

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History: DEQ 7-2015, f. & cert. ef. 4-16-15 DEQ 9-2014, f. & cert. ef. 6-26-14 DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11 DEQ 8-2007, f. & cert. ef. 11-8-07 DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-216-0060
General Air Contaminant Discharge Permits

(1) Applicability.

(a) DEQ may issue a General ACDP under the following circumstances:

(A) There are multiple sources that involve the same or substantially similar types of operations;

(B) All requirements applicable to the covered operations can be contained in a General ACDP;

(C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP; and

(D) The regulated pollutants emitted are of the same type for all covered operations.

(E) DEQ may determine that a source is ineligible for a General ACDP based upon the considerations in OAR 340-216-0025(7).

(b) Permit content. Each General ACDP must include the following:

(A) All relevant requirements for the operations covered by the General ACDP, excluding any federal requirements not adopted by the EQC;

(B) ~~Generic~~ PSELs set at the potential to emit for the largest emitting source in the source category in the state for all regulated pollutants emitted at more than the de minimis emission level according to OAR chapter 340, division 222;

(C) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the PSEL and other applicable emissions limits and standards; and

(D) A permit expiration date not to exceed 10 years from the date of issuance.

(c) Permit issuance public notice procedures: A new General ACDP requires public notice as a Category III permit action according to OAR chapter 340, division 209. A reissued General ACDP or a modification to a General ACDP requires public notice as a Category II permit action according to OAR chapter 340, division 209.

(d) DEQ will retain all General ACDPs on file and make them available for public review at DEQ's headquarters.

(2) Petition for General ACDP Categories.

Any person may file a petition with DEQ to add a category for a General ACDP. DEQ may use its discretion to determine whether to issue any such new General ACDP. The petition must include at least the following information:

(a) Justification for why a new General ACDP category should be developed;

(b) The approximate number of businesses that would be eligible for the General ACDP;

(c) Criteria for qualification to the General ACDP; and

(d) A list of the requirements applicable to the activities or sources that would be eligible for the new General ACDP.

(3~~2~~) Source assignment:

(a) Application requirements. Any person requesting that a source be assigned to a General ACDP must submit a written application according to OAR 340-216-0040 that includes the information in 340-216-0040(1), specifies the General ACDP source category, and shows that the source qualifies for the General ACDP.

(b) Fees. Applicants must pay the fees in OAR 340-216-8020. The fee class for each General ACDP is Fee Class One unless otherwise specified as follows:

(A) Hard chrome platers — Fee Class Three;

(B) Decorative chrome platers — Fee Class Two;

(C) Halogenated solvent degreasers — batch cold, batch vapor, and in-line — Fee Class Two;

(D) Perchloroethylene dry cleaners — Fee Class Six;

(E) Asphalt plants — Fee Class Three;

(F) Rock crushers — Fee Class Two;

(G) Ready-mix concrete — Fee Class One;

(H) Sawmills, planing mills, millwork, plywood manufacturing and veneer drying — Fee Class Three;

(I) Boilers — Fee Class Two;

(J) Crematories — Fee Class One;

(K) Grain elevators — Fee Class One;

(L) Prepared feeds, flour, and cereal — Fee Class One;

(M) Seed cleaning — Fee Class One;

(N) Coffee roasters — Fee Class One;

(O) Bulk gasoline plants — Fee Class One;

(P) Electric power generators — Fee Class Two;

(Q) Clay ceramics — Fee Class One;

(R) Hospital sterilizers — Fee Class Four;

~~(S) Secondary nonferrous metals — Fee Class One;~~

(ST) Gasoline dispensing facilities — stage I — Fee Class Five;

(TU) Gasoline dispensing facilities — stage II — Fee Class Four;

(UV) Wood preserving — Fee Class Four;

(VW) Metal fabrication and finishing — with two or more of the following operations — Fee Class Two;

(i) Dry abrasive blasting performed in a vented enclosure or of objects greater than 8 feet (2.4 meters) in any one dimension that uses materials that contain MFHAP or has the potential to emit MFHAP;

(ii) Spray-applied painting operation using MFHAP containing paints;

(iii) Welding operation that uses materials that contain MFHAP or has the potential to emit MFHAP and uses 2,000 pounds or more per year of MFHAP containing welding wire and rod (calculated on a rolling 12-month basis);

(WX) Metal fabrication and finishing — with only one of the operations listed in subparagraphs (2)(b)(W)(i) through (iii) — Fee Class One;

(XY) Metal fabrication and finishing — with none of the operations listed in subparagraphs (2)(b)(W)(i) through (iii) — Fee Class Four;

(YZ) Plating and polishing — Fee Class One;

(ZAA) Surface coating operations — Fee Class One;

~~(BB) Paint stripping — Fee Class One;~~

~~(CC) Aluminum, copper, and nonferrous foundries — Fee Class Two;~~

(AADD) Paints and allied products manufacturing — Fee Class Two; and

(BBEE) Emergency generators and firewater pumps, if a permit is required – Fee Class Two.

(c) Source assignment procedures:

(A) Assignment of a source to a General ACDP is a Category I permit action and is subject to the Category I public notice requirements according to OAR chapter 340, division 209.

(B) A person is not a permittee under the General ACDP until DEQ assigns the General ACDP to the person.

(C) Assignments to General ACDPs and attachments terminate when the General ACDP or attachment expires or is modified, terminated or revoked.

(D) Once a source has been assigned to a General ACDP, if the assigned General ACDP does not cover all applicable requirements ~~applicable to the source~~, excluding any federal requirements not adopted by the EQC, the other applicable requirements must be covered by

assignment to one or more General ACDP Attachments according to OAR 340-216-0062, otherwise the owner or operator of the source must obtain a Simple or Standard ACDP.

(E) An owner or operator of a source requesting to be assigned to a General ACDP Attachment, according to OAR 340-216-0062, for a source category in a higher annual fee class than the General ACDP to which the source is currently assigned, must be reassigned to the General ACDP for the source category in the higher annual fee class.

(43) DEQ Initiated Modification. If DEQ determines that the conditions have changed such that a General ACDP for a category needs to be modified, DEQ may issue a ~~new~~ modified General ACDP for that category and assign all existing General ACDP permit holders to the ~~new~~ modified General ACDP.

(54) Rescission. DEQ may rescind a~~n individual source's~~ permittee's assignment to a General ACDP if the permittee's source no longer meets the requirements or qualification conditions of the permit. In such case, the ~~source~~ permittee must submit an application within 60 days for a Simple or Standard ACDP upon notification by DEQ of DEQ's intent to rescind the General ACDP. Upon issuance of the Simple or Standard ACDP, or if the ~~source~~ permittee fails to submit an application for a Simple or Standard ACDP, DEQ will rescind the ~~source's~~ permittee's assignment to the General ACDP.

[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.]

[NOTE: All tables are found in OAR 340-216-8010, -8020, -8030.]

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 128-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 10-2001, f. & cert. ef. 8-30-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1725
DEQ 14-1998, f. & cert. ef. 9-14-98

340-216-0064
Simple ACDP

(1) Application Requirements. Any person requesting a new, modified, or renewed Simple ACDP must submit an application according to OAR 340-216-0040.

(2) DEQ may determine that a source is ineligible for a Simple ACDP based upon the considerations in OAR 340-216-0025(7).

(32) Fees. Applicants for a new or modified Simple ACDP must pay the fees in OAR 340-216-8020. Applicants for a new Simple ACDP must initially pay the High Annual Fee. Once the initial permit is issued, annual fees for Simple ACDPs will be assessed based on the following:

(a) Low Fee — A source may qualify for the low fee if:

(A) The source is, or will be, permitted under only one of the following categories in OAR 340-216-8010 Part B:

(i) Category 7. Asphalt felt and coatings;

(ii) Category 13. Boilers and other fuel burning equipment (can be combined with category 27. Electric power generation);

(iii) Category 27. Electric power generation;

(iv) Category 33. Galvanizing & pipe coating;

(v) Category 39. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr. metal charged (not elsewhere identified);

(vi) Category 40. Gypsum products;

(vii) Category 45. Liquid storage tanks subject to OAR chapter 340, division 232;

(viii) Category 56. Non-ferrous metal foundries 100 or more tons/year of metal charged;

(ix) Category 57. Organic or inorganic industrial chemical manufacturing;

(x) Category 62. Perchloroethylene dry cleaning;

(xi) Category 73. Secondary smelting and/or refining of ferrous and non-ferrous metals; or

(xii) Category 85. All other sources not listed in OAR 340-216-8010 (can be combined with category 27. Electric Power Generation); and

(B) The actual emissions from the calendar year immediately preceding the invoice date are less than five tons/year of PM10 in a PM10 nonattainment or maintenance area or PM2.5 in a PM2.5 nonattainment or maintenance area, and less than 10 tons/year for each criteria

pollutant; and

(C) The source is not creating a nuisance under OAR 340-208-0310 or 340-208-0450.

(b) High Fee — Any source required to have a Simple ACDP (OAR 340-216-8010 Part B) that does not qualify for the low fee under subsection (2)(a) will be assessed the high fee.

(c) If DEQ determines that a source was invoiced for the low annual fee but does not meet the low fee criteria outlined above, the source will be required to pay the difference between the low and high fees, plus applicable late fees in OAR 340-216-8020 Part 54. ~~Late fees start upon issuance of the initial invoice.~~ In the~~is~~ case of late fees, DEQ will issue a new invoice specifying applicable fees.

(43) Permit Content. Each Simple ACDP must include the following:

(a) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements, but excluding any federal requirements not adopted by the EQC;

(b) ~~Generic~~ PSELs at less than the SER for all regulated pollutants emitted at more than the de minimis emission level ~~according to~~under OAR chapter 340, division 222;

(c) To ensure the source's emission will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202:

(A) Any physical or operational limitation, including any combination of the use of control devices, restrictions on hours of operation, or restrictions on the type or amount of materials combusted, stored, or processed, will be included as permit conditions to limit short term emissions for all devices and activities that require controls or limitations; or

(B) A requirement to conduct ambient monitoring to confirm a new exceedance of a National Ambient Air Quality Standard. Ambient monitoring and meteorological monitoring must be conducted in accordance with a DEQ approved monitoring plan for a period of not less than 12 months. There must be at least 12 months of valid data with greater than 75 percent data completeness per quarter.

(d~~c~~) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and

(e~~d~~) A permit duration not to exceed 10~~5~~ years.

(54) Permit issuance public notice procedures:

(a) Issuance of a new or renewed Simple ACDP requires public notice as a Category II~~I~~ permit according to OAR chapter 340, division 209.

(b) Issuance of a modification to a Simple ACDP requires one of the following procedures, as applicable:

(A) Public notice as a Category I permit action for non-technical and basic and simple technical modifications according to OAR chapter 340, division 209; or

(B) Public notice as a Category III permit action for moderate and complex technical modifications according to OAR chapter 340, division 209.

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.

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
Reverted to DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-216-0066 Standard ACDPs

(1) Application requirements. Any person requesting a new, modified, or renewed Standard ACDP must submit an application according to OAR 340-216-0040 and include the following additional information as applicable:

(a) New or modified Standard ACDPs that are not subject to Major NSR, but have emissions increases above the significant emissions rate are subject to the requirements of State NSR. The application must include an analysis of the air quality and, for federal major sources only, the visibility impacts of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts.

(b) For new or modified Standard ACDPs that are subject to Major NSR, the application must include the following information as applicable:

(A) A detailed description of the air pollution control devices and emission reductions processes that are planned for the major source or major modification, and any other information necessary to determine that BACT or LAER technology, whichever is applicable, would be applied;

(B) An analysis of the air quality and, for federal major sources only, the visibility impacts of the major source or major modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality

impacts; and

(C) An analysis of the air quality and, for federal major sources only, the visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, which has occurred since the baseline concentration year in the area the major source or major modification would affect.

(2) Fees. Applicants for a Standard ACDP must pay the fees in OAR 340-216-8020.

(3) Permit content. Each Standard ACDP must include the following:

(a) All applicable requirements, including general ACDP conditions for incorporating generally applicable requirements, but excluding any federal requirements not adopted by the EQC;

(b) ~~Source specific~~ PSELs for all regulated pollutants emitted at more than the de minimis emission level ~~or Generic PSEL levels, whichever are applicable,~~ under OAR chapter 340, division 222;

(c) To ensure the source's emission will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202:

(A) Any physical or operational limitation, including any combination of the use of control devices, restrictions on hours of operation, or restrictions on the type or amount of materials combusted, stored, or processed, will be included as permit conditions to limit short term emissions for all devices and activities that require controls or limitations; or

(B) A requirement to conduct ambient monitoring to confirm a new exceedance of a National Ambient Air Quality Standard. Ambient monitoring and meteorological monitoring must be conducted in accordance with a DEQ approved monitoring plan for a period of not less than 12 months. There must be at least 12 months of valid data with greater than 75 percent data completeness per quarter.

(d~~c~~) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and

(e~~d~~)(A) A permit duration not to exceed 5 years, for all permits except as allowed under paragraph (B); or

(B) For a Standard ACDP that is issued solely to implement the requirements of OAR chapter 340, division 224 for New Source Review for a Title V source, there is no expiration date. This permit is only required to be modified if any of the New Source Review permit conditions must be modified. The owner or operator does not have to pay annual fees for this permit but must pay the applicable specific activity fees for any permit modification.

(4) Permit issuance procedures.

(a) Issuance of a new or renewed Standard ACDP requires public notice under OAR chapter

340, division 209 as follows:

(A) Public notice as a Category III permit action for permit actions that will increase allowed emissions but that are not Major NSR or Type A State NSR permit actions under OAR chapter 340, division 224, or as a Category II permit action if the permit will not increase allowed emissions;.

(B) Public notice as a Category IV permit action for permit actions that are Major NSR or Type A State NSR permit actions under OAR chapter 340, division 224;.

(b) Issuance of a modified Standard ACDP requires public notice under OAR chapter 340, division 209 as follows:

(A) Public notice as a Category I permit action for non-technical modifications and basic and simple technical modifications according to OAR chapter 340, division 209;.

(B) Public notice as a Category II permit action for moderate and complex technical modifications if there will be no increase in allowed emissions, or as a Category III permit action if there will be an increase in emissions; or

(C) Public notice as a Category IV permit action for major modifications subject to Major NSR or Type A State NSR under OAR chapter 340, division 224.

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.

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 129-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-216-0068
Simple and Standard ACDP Attachments

(1) Purpose. This rule allows DEQ to add new requirements to existing Simple or Standard ACDPs by assigning the source to an ACDP Attachment issued under section (2). An ACDP Attachment would apply to an affected source until the new requirements are incorporated into the source's Simple or Standard ACDP at the next permit renewal or at the time of permit modification.

(2) ACDP Attachment issuance procedures:

(a) An ACDP Attachment issuance requires public notice as a Category II permit action under OAR chapter 340, division 209. ~~, except that~~ ~~a~~Assigning ACDP Attachments to Simple or Standard ACDPs require notice as Category I permit actions.

(b) DEQ may issue an ACDP Attachment when there are multiple sources that are subject to the new requirements.

(c) Attachment content. Each ACDP Attachment must include the following:

(A) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the applicable emissions limits and standards; and

(B) An attachment expiration date not to exceed 5 years from the date of issuance.

(3) Assignment to ACDP Attachment:

(a) A source is not a permittee under the ACDP Attachment until DEQ assigns the ACDP Attachment to the source.

(b) The ACDP Attachment is removed from the Simple or Standards ACDP when the requirements of the ACDP Attachment are incorporated into the source's Simple or Standard ACDP at the time of renewal or of a modification.

(c) If an EPA or DEQ action causes a source to be subject to the requirements in an ACDP Attachment, assignment to the ACDP Attachment is a DEQ initiated modification to the Simple or Standard ACDP and the permittee is not required to submit an application or pay fees for the permit action. In such case, DEQ would notify the permittee of the proposed permitting action and the permittee may object to the permit action if the permittee demonstrates that the source is not subject to the requirements of the ACDP Attachment.

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13

340-216-0082
Expiration, Termination, Reinstatement or Revocation of an ACDP

(1) Expiration.

(a) A source may not be operated after the expiration date of a permit, unless any of the following occur prior to the expiration date of the permit:

(A) A timely and complete application for renewal or reassignment has been submitted; or

(B) Another type of permit, ACDP or Oregon Title V Operating Permit, has been applied for or issued authorizing operation of the source.

(b) If a timely and complete renewal or reassignment application has been submitted, the existing permit will remain in effect until final action has been taken on the renewal application to issue or deny a permit.

(c) For a source operating under an ACDP or Oregon Title V Operating Permit, a requirement established in an earlier ACDP remains in effect notwithstanding expiration of the ACDP, unless the provision expires by its terms or unless the provision is modified or terminated according to the procedures used to establish the requirement initially.

(2) ~~Automatic~~ Termination. Except as provided in section (3), a source may not be operated after the termination of a permit. A permit ~~is automatically~~ terminate~~d~~ upon:

(a) Issuance of a renewal, reassigned ACDP or a new ACDP for the same activity or operation;

(b) Written request by the permittee to DEQ requesting termination. If DEQ determines that a permit is no longer needed, DEQ will confirm termination in writing to the permittee;~~Written request of the permittee, if DEQ determines that a permit is no longer required;~~

(c) Failure to submit a timely and complete application for permit renewal or reassignment as required in OAR 340-216-0040. Termination is effective on the permit expiration date; ~~or~~

(d) Failure to pay annual fees within 90 days of the invoice due date as issued by DEQ, unless prior arrangements for a payment plan have been approved in writing by DEQ.

(3) Termination of construction approval.

(a) Construction approval issued by DEQ under this division terminates and is invalid for the following reasons:

(A) Construction is not commenced within 18 months after DEQ issues such approval, by an alternative deadline established by DEQ under this section, or by the deadline approved by DEQ in an extension under subsection (b);

(B) Construction is discontinued for a period of 18 months or more; or

(C) Construction is not completed within 18 months of the anticipated date of construction completion included in the application.

(b) The owner or operator of a source for which construction approval has been terminated under subsection (a) may submit a request to extend the construction commencement deadline by submitting a written, detailed explanation of why the source could not commence

construction within the initial 18-month period. DEQ may grant for good cause one 18-month construction approval extension.

(43) Reinstatement of Terminated Permit.: ~~A permit automatically terminated under any of subsections (2)(b) through (2)(d) may only be reinstated by the permittee by applying for a new permit. The permittee must also pay the applicable new source permit application fees in this division, unless the owner or operator submits the renewal application within three months of the permit expiration date.~~

(a) A permit subject to termination under subsection (2)(c) may only be reinstated if, not later than 30 days after the permit expiration date, the permittee submits a complete renewal application and pays a late application fee equivalent to the initial new permitting application fee that would apply if the source was a new source, in which case the existing, expired permit will be reinstated effective as of the permit expiration date and will remain in effect until final action has been taken on the renewal application to issue or deny a permit;

(b) A permit terminated under subsection (2)(d) may only be reinstated if, not later than 90 days after termination, the permittee pays all unpaid annual fees and applicable late fees in which case the existing permit will be reinstated effective on the date of termination; and

(c) A terminated permit may only be reinstated as provided in subsections (a) and (b). If neither subsection (a) or (b) apply, the former permittee of a terminated permit who wishes to obtain an ACDP must submit a complete application for a new permit, including paying applicable new source permit application fees and any unpaid annual fees and late fees that were due under the terminated permit. Until DEQ issues or reassigns a new permit, the source may not operate.

(54) Revocation:

(a) If DEQ determines that a permittee is in noncompliance with the terms of the permit, submitted false information in the application or other required documentation, or is in violation of any applicable rule or statute, DEQ may revoke the permit. DEQ will provide notice of the intent to revoke the permit to the permittee under OAR 340-011-0525. The notice will include the reasons why the permit will be revoked, and include an opportunity for the permittee to request a contested case hearing prior to the revocation. A permittee's written request for hearing must be received by DEQ within 60 days from service of the notice on the permittee, and must state the grounds of the request. The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and OAR chapter 340, division 011. The permit will continue in effect until the 60th day after service of the notice on the permittee, if the permittee does not timely request a hearing, or until a final order is issued if the permittee timely requests a hearing.

(b) If DEQ finds there is a serious danger to the public health, safety or the environment caused by a permittee's activities, DEQ may immediately revoke or refuse to renew the permit without prior notice or opportunity for a hearing. If no advance notice is provided, notification will be provided to the permittee as soon as possible under OAR 340-011-0525. The notification will set forth the specific reasons for the revocation or refusal to renew and

will provide an opportunity for the permittee to request a contested case hearing for review of the revocation or refusal to renew. A permittee's written request for hearing must be received by DEQ within 90 days of service of the notice on the permittee and must state the grounds for the request. The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and OAR chapter 340, division 011. The revocation or refusal to renew becomes final without further action by DEQ if a request for a hearing is not received within the 90 days. If a request for a hearing is timely received, the revocation or refusal to renew will remain in place until issuance of a final order.

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.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 183.468 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0015 & 340-014-0045
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 21-1990, f. & cert. ef. 7-6-90
DEQ 125, f. & cert. ef. 12-16-76
DEQ 42, f. 4-5-72, cert. ef. 4-15-72

340-216-0084
Department Initiated Modification

(1) If DEQ determines it is appropriate to modify an ACDP, other than a General ACDP, DEQ will notify the permittee by regular, registered or certified mail of the modification and will include the proposed modification and the reasons for the modification, following the permit issuance procedures in OAR 340-216-0056(5) for Basic ACDPs, OAR 340-216-0064(5) for Simple ACDPs, and OAR 340-216-0066(4) for Standard ACDPs.

(2) The modification will become effective upon mailing unless the permittee requests a contested case hearing within 20 days. A request for hearing must be made in writing and must include the grounds for the request. The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and OAR 340 division 011. If a hearing is requested, the existing permit will remain in effect until after a final order is issued following the hearing.

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 183 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15

DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0040
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 42, f. 4-5-72, ef. 4-15-72

340-216-8010
Table 1 — Activities and Sources

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

[NOTE: For the history of these tables prior to 2014 ~~S~~see the history ~~of these tables~~ under OAR 340-216-0020]

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

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 59-2017, minor correction filed 12/20/2017, effective 12/20/2017
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 12-2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15
DEQ 9-2014, f. & cert. ef. 6-26-14

OAR 340-216-8010

Table 1

Activities and Sources

The following source categories must obtain a permit as required by OAR 340-216-0020 Applicability and Jurisdiction.

Part A: Basic ACDP

1 Autobody repair or painting shops painting more than 25 automobiles in a year and that are located inside the Portland AQMA.

2 Concrete manufacturing including redi-mix and CTB, both stationary and portable, more than 5,000 but less than 25,000 cubic yards per year output.

3 Crematory incinerators with less than 20 tons/year material input.

4 Individual ~~N~~natural gas ~~and~~ or propane ~~-~~-fired boilers with heat input rating between

9.9 and 29.9 ~~of 10 or more~~ MMBTU/hour~~, but less than 30 MMBTU/hour heat input~~ constructed after June 9, 1989, that do not use more than 9,999 ~~may use less than 10,000~~ gallons per year of #2 diesel oil as a backup fuel.

5 Prepared feeds for animals and fowl and associated grain elevators more than 1,000 tons/year but less than 10,000 tons per year throughput.

6 Rock, concrete or asphalt crushing, both stationary and portable, more than 5,000 tons/year but less than 25,000 tons/year crushed.

7 Surface coating operations whose actual or expected usage of coating materials is greater than 250 gallons per month but does not exceed 3,500 gallons per year, excluding sources that exclusively use non-VOC and non-HAP containing coatings, e.g., powder coating operations.

8 Sources subject to permitting under Part B of this table, number 85 if all of the following criteria are met:

a. The source is not subject to any category listed on this table other than Part B number 85;
b. The source has requested an enforceable limit on their actual emissions, if the source were to operate uncontrolled, to below Part B number 85 of this table as applicable depending on the source's location through one or both of the following:
    i. A limit on hours of operation;
    ii. A limit on production;
c. Control devices are not required to be used or otherwise accounted for to maintain emissions levels compliant with 8.b above;
d. The source is not subject to and does not have any affected emissions units subject to a 40 C.F.R. part 60, part 61, or part 63 standard (NSPS or NESHAP);
e. The source is not subject to any specific industry or operation standard in OAR chapter 340, divisions 232, 234, or 236.
f. DEQ has determined that the source is not required to conduct source testing and source testing for emission factor verification will not be required.

Part B: General, Simple or Standard ACDP

1 Aerospace or aerospace parts manufacturing subject to RACT ~~as regulated by~~under OAR chapter 340, division 232.

2 Aluminum, copper, and other nonferrous foundries subject to an area source NESHAP under OAR chapter 340, division 244.

3 Aluminum production – primary.

4 Ammonia manufacturing.

5 Animal rendering and animal reduction facilities.

6 Asphalt blowing plants.

7 Asphalt felts or coating manufacturing.

8 Asphaltic concrete paving plants, both stationary and portable.

9 Bakeries, commercial over 10 tons of VOC emissions per year.

10 Battery separator manufacturing.

11 Lead-acid battery manufacturing and re-manufacturing.

12 Beet sugar manufacturing.

13 Oil-fired boilers and other fuel burning equipment whose total heat input rating at the source is over 10 MMBTU/hour; or individual natural gas, propane, or butane-fired boilers and other fuel burning equipment 30 MMBTU/hour or greater heat input rating~~Boilers and other fuel burning equipment over 10 MMBTU/hour heat input, except exclusively Natural Gas and Propane fired units (with or without #2 diesel backup) under 30 MMBTU/hour heat input~~.

14 Building paper and building board mills.

15 Calcium carbide manufacturing.

16 Can or drum coating subject to RACT ~~as regulated by~~under OAR chapter 340, division 232.[2]

17 Cement manufacturing.

18 Cereal preparations and associated grain elevators 10,000 or more tons/year throughput.[1]

19 Charcoal manufacturing.

20 Chlorine and alkali manufacturing.

21 Chrome plating and anodizing subject to a NESHAP under OAR chapter 340, division 244.

22 Clay ceramics manufacturing subject to an area source NESHAP under OAR chapter 340, division 244.

23 Coffee roasting, roasting 30 or more green tons per year.

24 Concrete manufacturing including redi-mix and CTB, both stationary and portable, 25,000 or more cubic yards per year output.

25 Crematory incinerators 20 or more tons/year material input.

26 Degreasing operations, halogenated solvent cleanings subject to a NESHAP under OAR chapter 340, division 244.

27 Electrical power generation from combustion, excluding units used exclusively as emergency generators and units less than 500 kW.

28 Commercial ethylene oxide sterilization, excluding facilities using less than 1 ton of ethylene oxide within all consecutive 12-month periods after December 6, 1996.

29 Ferroalloy production facilities subject to an area source NESHAP under OAR chapter 340, division 244.

30 Flatwood coating ~~regulated by~~subject to RACT under OAR chapter 340, division 232.[2]

31 Flexographic or rotogravure printing subject to RACT under OAR chapter 340, division 232.[2]

32 Flour, blended and/or prepared and associated grain elevators 10,000 or more tons/year throughput.[1]

33 Galvanizing and pipe coating, except galvanizing operations that use less than 100 tons of zinc/year.

34 Bulk gasoline plants, bulk gasoline terminals, and pipeline facilities.

35 Gasoline dispensing facilities, excluding gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline per month[3].

36 Glass and glass container manufacturing subject to a NSPS under OAR chapter 340, division 238 or a NESHAP under OAR chapter 340, division 244.

37 Grain elevators used for intermediate storage 10,000 or more tons/year throughput.[1]

38 Reserved.

39 Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/year metal charged, not elsewhere identified.

40 Gypsum products manufacturing.

41 Hardboard manufacturing, including fiberboard.

42 Hospital sterilization operations subject to an area source NESHAP under OAR chapter 340, division 244.

43 Incinerators with two or more tons per day capacity.

44 Lime manufacturing.

45 Liquid storage tanks subject to RACT under OAR chapter 340, division 232.[2]

46 Magnetic tape manufacturing.

47 Manufactured home, mobile home and recreational vehicle manufacturing.

48 Marine vessel petroleum loading and unloading subject to RACT under OAR chapter 340, division 232.

49 Metal fabrication and finishing operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding facilities that meet all the following:

a. Do not perform any of the operations listed in OAR 340-216-0060(32)(b)(VW)(i) through (iii);

b. Do not perform shielded metal arc welding (SMAW) using metal fabrication and finishing hazardous air pollutant (MFHAP) containing wire or rod; and

c. Use less than 100 pounds of MFHAP containing welding wire and rod per year.

50 Millwork manufacturing, including kitchen cabinets and structural wood members, 25,000 or more board feet/maximum 8 hour input.

51 Molded plastic container manufacturing, using extrusion, molding, lamination, and foam processing and molded fiberglass container manufacturing, excluding injection molding.

52 Motor coach, travel trailer, and camper manufacturing.

53 Motor vehicle and mobile equipment surface coating operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding motor vehicle surface coating operations painting less than 10 vehicles per year or using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, mobile

equipment surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, and motor vehicle surface coating operations registered pursuant to OAR 340-210-0100(2).

54 Natural gas and oil production and processing and associated fuel burning equipment.

55 Nitric acid manufacturing.

56 Nonferrous metal foundries 100 or more tons/year of metal charged.

57 Organic or inorganic chemical manufacturing and distribution with ½ or more tons per year emissions of any one criteria pollutant, sources in this category with less than ½ ton/year of each criteria pollutant are not required to have an ACDP.

58 Paint and allied products manufacturing subject to an area source NESHAP under OAR chapter 340, division 244.

59 Paint stripping and miscellaneous surface coating operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding paint stripping and miscellaneous surface coating operations using less than 20 gallons of coating and also using less than 20 gallons of methylene chloride containing paint stripper per year.

60 Paper or other substrate coating subject to RACT under OAR chapter 340, division 232.[2]

61 Particleboard manufacturing, including strandboard, flakeboard, and waferboard.

62 Perchloroethylene dry cleaning operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding perchloroethylene dry cleaning operations registered pursuant to OAR 340-210-0100(2).

63 Pesticide manufacturing 5,000 or more tons/year annual production.

64 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.

65 Plating and polishing operations subject to an area source NESHAP under OAR chapter 340, division 244.

66 Plywood manufacturing and/or veneer drying.

67 Prepared feeds manufacturing for animals and fowl and associated grain elevators 10,000 or more tons per year throughput.

68 Primary smelting and/or refining of ferrous and non-ferrous metals.

69 Pulp, paper and paperboard mills.

70 Rock, concrete or asphalt crushing, both stationary and portable, 25,000 or more

tons/year crushed.

71 Sawmills and/or planing mills 25,000 or more board feet/maximum 8 hour finished product.

72 Secondary nonferrous metals processing subject to an Area Source NESHAP under OAR chapter 340, division 244.

73 Secondary smelting and/or refining of ferrous and nonferrous metals.

74 Seed cleaning and associated grain elevators 5,000 or more tons/year throughput.[1]

75 Sewage treatment facilities employing internal combustion engines for digester gasses.

76 Soil remediation facilities, both stationary and portable.

77 Steel works, rolling and finishing mills.

78 Surface coating in manufacturing subject to RACT under OAR chapter 340, division 232.[2]

79 Surface coating operations with actual emissions of VOCs, if the source were to operate uncontrolled, ~~before add-on controls~~ of 10 or more tons/year.

80 Synthetic resin manufacturing.

81 Tire manufacturing.

82 Wood furniture and fixtures 25,000 or more board feet/maximum 8 hour input.

83 Wood preserving (excluding waterborne).

84 All other sources, both stationary and portable, not listed herein that DEQ determines an air quality concern exists or one which would emit significant malodorous emissions.

85 All other sources, both stationary and portable, not listed herein which would have ~~actual emissions, if the source were to operate uncontrolled, of~~ the capacity of 5 or more tons per year of direct PM2.5 or PM10 if located in a PM2.5 or PM10 nonattainment or maintenance area, or 10 or more tons per year of any single criteria pollutant ~~if located in any part of the state~~.[4]

86 Chemical manufacturing facilities ~~that do not transfer liquids containing organic HAP listed in Table 1 of 40 CFR part 63 subpart VVVVVV to tank trucks or railcars and are not subject to emission limits in Table 2, 3, 4, 5, 6, or 8 of~~ subject to 40 C.F.R. part 63 subpart VVVVVV.

87 Stationary internal combustion engines if:

a. For emergency generators and firewater pumps, the aggregate engine

horsepower rating is greater than 30,000 horsepower; or

b. For any individual non-emergency or non-fire pump engine, the engine is subject to 40 CFR part 63, subpart ZZZZ and is rated at 500 horsepower or more, excluding two stroke lean burn engines, engines burning exclusively landfill or digester gas, and four stroke engines located in remote areas; or

c. For any individual non-emergency engine, the engine is subject to 40 CFR part 60, subpart IIII and:

A. The engine has a displacement of 30 liters or more per cylinder; or

B. The engine has a displacement of less than 30 liters per cylinder and is rated at 500 horsepower or more and the engine and control device are either not certified by the manufacturer to meet the NSPS or not operated and maintained according to the manufacturer's emission-related instructions; or

d. For any individual non-emergency engine, the engine is subject to 40 CFR part 60, subpart JJJJ and is rated at 500 horsepower or more and the engine and control device are either not certified by the manufacturer to meet the NSPS or not operated and maintained according to the manufacturer's emission-related instructions.

88 All sources subject to RACT under OAR chapter 340, division 232, BACT or LAER under OAR chapter 340, division 224, a NESHAP under OAR chapter 340, division 244, a NSPS under OAR chapter 340, division 238, or State MACT under OAR 340-244-0200(2), except sources:

a. Exempted in any of the categories above;

b. For which a Basic ACDP is available; or

c. Registered pursuant to OAR 340-210-0100(2).

89 Pathological waste incinerators.

90 Landfills with more than 200,000 tons of waste in place and calculated methane generation rate is less than 664 metric tons per year which are subject to the requirements in OAR 340 division 239.

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[1] Applies only to Special Control Areas

[2] Portland AQMA, Medford-Ashland AQMA or Salem-Keizer in the SKATS only

[3] "monthly throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during a month. Monthly throughput is calculated by summing

the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during the month, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during the previous 11 months, and then dividing that sum by 12

[4] A source subject to permitting from this category may be able to obtain a Basic ACDP under Part A number 8 of this table. For sources that meet the criteria of Part A number 8 of this table, the enforceable production or hours limitation in an issued ACDP may be used to demonstrate a permit is not required by Part B number 85 of this table irrespective of the term 'uncontrolled'.

Part C: Standard ACDP

1 Incinerators for PCBs, other hazardous wastes, or both.

2 All sources that DEQ determines have emissions that constitute a nuisance.

3 All sources electing to maintain the source's netting basis.

4 All sources that request a PSEL equal to or greater than the SER for a regulated pollutant.

5 All sources having the potential to emit 100 tons or more of any regulated pollutant, except GHG, in a year.

6 All sources having the potential to emit 10 tons or more of a single hazardous air pollutant in a year.

7 All sources having the potential to emit 25 tons or more of all hazardous air pollutants combined in a year.

8 Landfills with more than 200,000 tons of waste in place and calculated methane generation rate is greater than or equal to 664 metric tons per year which are subject to the requirements in OAR 340 division 239.

NOTE: For the history of these tables prior to 2014 see the history under OAR 340-216-0020. This history is also shown below:~~**NOTE**: See history of these tables under OAR 340-216-0020~~
DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 14-2011, f, & cert. ef. 7-21-11
DEQ 13-2011, f. & cert. ef. 7-21-11
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11
DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 7-2007, f. & cert. ef. 10-18-07
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96

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

340-216-8020
Table 2 — Air Contaminant Discharge Permits

(1) Sources referred to in Table 1 of OAR 340-216-8010 are subject to air contaminant discharge permit fees in Table 2. Title V sources may be subject to the Cleaner Air Oregon annual fees and the specific activity permit fees in Table 2, if applicable.

(2) Requests for waiver of fees must be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship. The Director may waive part or all of a fee.

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

[NOTE: For the history of these tables prior to 2014 ~~S~~see the history ~~of this table~~ under OAR 340-216-0020.]

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

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 15-2019, amend filed 06/25/2019, effective 06/25/2019
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 60-2017, minor correction filed 12/20/2017, effective 12/20/2017
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14

OAR 340-216-8020
Table 2
Air Contaminant Discharge Permits

Part 1. Initial Permitting Application Fees: (in addition to first annual fee)	
Short Term Activity ACDP	$4,500.00
Basic ACDP	$180.00
Assignment to General ACDP [1]	$1,800.00
Simple ACDP	$9,000.00
Construction ACDP	$14,400.00
Standard ACDP	$18,000.00
Standard ACDP (Major NSR or Type A State NSR)	$63,000.00

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 2a. Annual Fees: (Due date 12/1[1] for 1/1 to 12/31 of the following year) (applicable through June 30, 2021)~~		
~~Short Term Activity ACDP~~		~~$0~~
~~Basic ACDP~~	~~(A) #1-7 OAR 340-216-8010 Table 1 Part A~~	~~$497.00~~
	~~(B) #8 OAR 340-216-8010 Table 1 Part A~~	~~$1,469.00~~
~~General ACDP~~	~~(A) Fee Class One~~	~~$1,080.00~~
	~~(B) Fee Class Two~~	~~$1,944.00~~
	~~(C) Fee Class Three~~	~~$2,808.00~~
	~~(D) Fee Class Four~~	~~$540.00~~
	~~(E) Fee Class Five~~	~~$180.00~~
	~~(F) Fee Class Six~~	~~$360.00~~
~~Simple ACDP~~	~~(A) Low Fee~~	~~$3,917.00~~
	~~(B) High Fee~~	~~$7,834.00~~
~~Standard ACDP~~		~~$15,759.00~~

OAR 340-216-8020
Table 2
Air Contaminant Discharge Permits

~~Greenhouse Gas Reporting, as required by OAR 340, Division 215~~		~~7.31% of the applicable ACDP annual fee in Part 2~~
~~1. DEQ may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.~~		
~~Part 2b. Annual Fees: (Due date 12/1[1] for 1/1 to 12/31 of the following year) (applicable July 1, 2021 through June 30, 2022)~~		
~~Short Term Activity ACDP~~		~~$0~~
~~Basic ACDP~~	~~(A) #1-7 OAR 340-216-8010 Table 1 Part A~~	~~$562.00~~
	~~(B) #8 OAR 340-216-8010 Table 1 Part A~~	~~$1,469.00~~
~~General ACDP~~	~~(A) Fee Class One~~	~~$1,296.00~~
	~~(B) Fee Class Two~~	~~$2,333.00~~
	~~(C) Fee Class Three~~	~~$3,369.00~~
	~~(D) Fee Class Four~~	~~$648.00~~
	~~(E) Fee Class Five~~	~~$216.00~~
	~~(F) Fee Class Six~~	~~$432.00~~
~~Simple ACDP~~	~~(A) Low Fee~~	~~$3,917.00~~
	~~(B) High Fee~~	~~$7,834.00~~
~~Standard ACDP~~		~~$15,759.00~~
~~Greenhouse Gas Reporting, as required by OAR 340, Division 215~~		~~7.31% of the applicable ACDP annual fee in Part 2~~
Part 2~~c~~. Annual Fees: (Due date 12/1[1] for 1/1 to 12/31 of the following year) (applicable July 1, 2022)		
Registration – Motor vehicle surface coating operations		$288.00
Registration - Dry cleaners using perchloroethylene		$216.00

OAR 340-216-8020
Table 2
Air Contaminant Discharge Permits

Short Term Activity ACDP		$0
Basic ACDP	(A) #1-7 OAR 340-216-8010 Table 1 Part A	$648.00
	(B) #8 OAR 340-216-8010 Table 1 Part A	$1,469.00
General ACDP	(A) Fee Class One	$1,469.00
	(B) Fee Class Two	$2,644.00
	(C) Fee Class Three	$3,818.00
	(D) Fee Class Four	$734.00
	(E) Fee Class Five	$245.00
	(F) Fee Class Six	$490.00
Simple ACDP	(A) Low Fee	$3,917.00
	(B) High Fee	$7,834.00
Standard ACDP		$15,759.00
Greenhouse Gas Reporting, as required by OAR chapter 340, Division 215		7.31% of the applicable ACDP annual fee in Part 2
Part 3. Cleaner Air Oregon Annual Fees: (Due date 12/1[1] for 1/1 to 12/31 of the following year)		
Basic ACDP	(A) #1-7 OAR 340-216-8010 Table 1 Part A	$151.00
	(B) #8 OAR 340-216-8010 Table 1 Part A	$302.00
General ACDP	(A) Fee Class One	$302.00
	(B) Fee Class Two	$544.00
	(C) Fee Class Three	$786.00

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Table 2
Air Contaminant Discharge Permits

	(D) Fee Class Four	$151.00
	(E) Fee Class Five	$50.00
	(F) Fee Class Six	$100.00
Simple ACDP	(A) Low Fee	$806.00
	(B) High Fee	$1,612.00
Standard ACDP		$3,225.00
1. DEQ may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.		
Part 4. Specific Activity Fees:		
Notice of Intent to Construct Type 2[1]		$720.00
Permit Modification	(A) Non-Technical[2]	$432.00
	(B) Basic Technical	$540.00
	(C) Simple Technical	$1,800.00
	(D) Moderate Technical	$9,000.00
	(E) Complex Technical	$18,000.00
Toxic Air Contaminant Permit Addendum Modification	(A) Non-Technical	$432.00
	(B) Basic Technical	$432.00
	(C) Simple Technical	$1,440.00
	(D) Moderate Technical	$7,200.00
	(E) Complex Technical	$14,440.00
Major NSR or Type A State NSR Permit Modification		$63,000.00
Modeling Review (outside Major NSR or Type A State NSR)		$9,000.00
Public Hearing at Source's Request		$3,600.00
State MACT Determination		$9,000.00

OAR 340-216-8020
Table 2
Air Contaminant Discharge Permits

Compliance Order Monitoring ~~3~~2	$180.00/month
Part 5. Late Fees:	
8-30 days late	5%
31-60 days late	10%
61 or more days late	20%

1. The Type 2 Notice of Intent to Construct does not apply to existing Basic ACDP or General ACDP sources.

~~2. 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) if DEQ receives both forms at the same time~~.

2~~3~~. 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.

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

Division 218
OREGON TITLE V OPERATING PERMITS

340-218-0020
Applicability

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

(a) Any major source;

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

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

(d) Any affected source under Title IV; and

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

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

(3) Synthetic minor sources.

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

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

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

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

(4) Source category exemptions.

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

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

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

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

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

(5) Sources subject to this division may also be subject to OAR 340-245-0005 through 340-245-8010.

(6) 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.

(7) 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.

(8) 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.

(9) Oregon Title V Operating Permit program sources that are required to obtain an ACDP, OAR chapter 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.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2110
DEQ 10-1999, f. & cert. ef. 7-1-99
DEQ 14-1998, f. & cert. ef. 9-14-98
DEQ 1-1997, f. & cert. ef. 1-21-97
DEQ 24-1995, f. & cert. ef. 10-11-95
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & ef. 10-28-94
DEQ 12-1993, f. & cert. ef. 9-24-93

340-218-0040
Permit Applications

(1) Duty to apply. For each Oregon Title V Operating Permit program source, the owner or operator must submit a timely and complete permit application ~~using~~ according to this rule:

(a) Timely application:

(A) A timely application for a source that is in operation as of the effective date of the Oregon Title V Operating Permit program is one that is submitted 12 months after the effective date of the Oregon Title V Operating Permit program in Oregon or on or before such earlier date as DEQ may establish. If an earlier date is established, DEQ will provide at least six (6) months for the owner or operator to prepare an application. A timely application for a source that is not in operation or that is not subject to the Oregon Title V Operating Permit program as of the effective date of the Oregon Title V Operating Permit program is one that is submitted within 12 months after the source becomes subject to the Oregon Title V Operating Permit program;~~.~~

(B) Any Oregon Title V Operating Permit program source required to have obtained a permit prior to construction under the ACDP program, OAR chapter 340, division 216; New Source Review program, OAR chapter 340, division 224; or the Notice of Construction and Approval of Plans rules, 340-210-0205 through 340-210-0250, must file a complete application to obtain the Oregon Title V Operating Permit or permit revision within 12 months after commencing operation. Commencing operation will be considered initial startup of the construction or modification. Where an existing Oregon Title V Operating Permit would prohibit such construction or change in operation, the owner or operator must obtain a permit revision before commencing operation;

(C) Any Oregon Title V Operating Permit program source owner or operator must follow the appropriate procedures under this division prior to commencement of operation of a source permitted under the Notice of Construction and Approval of Plans rules, OAR 340-210-0205

through 340-0210-0250;

(D) For purposes of permit renewal, a timely application is one that is submitted at least 12 months prior to the date of permit expiration, or such other longer time as may be approved by DEQ that ensures that the term of the permit will not expire before the permit is renewed. If more than 12 months is required to process a permit renewal application, DEQ will provide no less than six (6) months for the owner or operator to prepare an application. In no event will this time be greater than 18 months; and

~~(E) Applications for initial phase II acid rain permits must be submitted to DEQ by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides;~~

(E~~F~~) Applications for Compliance Extensions for Early Reductions of HAP must be submitted before proposal of an applicable emissions standard issued under section 112(d) of the FCAA and must comply with OAR 340-244-0100.

(b) Complete application:

(A) To be deemed complete, an application must provide all information required pursuant to section (3)~~, except applications for permit renewal only need to include information that has changed since issuance of the last permit and applications for permit revision only need to include information related to proposed changes~~. ~~The~~Complete applications must be submitted using electronic forms provided by DEQ, unless otherwise allowed in writing by DEQ, and all applicable fees. ~~include three (3) copies of all required forms and exhibits in hard copy and one (1) copy in electronic format as specified by DEQ.~~ Information required under section (3) must be sufficient to evaluate the subject source ~~and its application~~ and to determine all applicable requirements. A responsible official must certify the submitted information under section (6~~5~~);

(B) Applications which are obviously incomplete, unsigned, or which do not contain the required exhibits, clearly identified, will not be accepted by DEQ for filing and will be returned to the applicant for completion;

(C) If DEQ determines that additional information is necessary before making a completeness determination, it may request such information in writing and set a reasonable deadline for a response. The application will not be considered complete for processing until the adequate information has been received, either before the expiration of the permit or by the reasonable deadline for response if after the expiration date of the permit. When the information in the application is deemed adequate, the applicant will be notified that the application is complete for processing;

(D) Unless DEQ determines that an application is not complete within 60 days of receipt of the application, such application will be deemed to be complete, except as otherwise provided in OAR 340-218-0120(1)(e). If, while processing an application that has been determined or deemed to be complete, DEQ determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. If the additional information is not provided by the deadline specified, the application will be determined to be incomplete, and

the application shield will cease to apply;

(E) Applications determined or deemed to be complete will be submitted by DEQ to the EPA as required by OAR 340-218-0230(1)(a); and

(F) The source's ability to operate without a permit, as set forth in 340-218-0120(2), will be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by DEQ.

(2) Duty to supplement or correct application. Any applicant 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. In addition, an applicant must provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(3) Standard application form and required information. Applications must be submitted ~~on forms and~~ in electronic formats specified by DEQ, unless otherwise allowed in writing by DEQ. Information as described below for each emissions unit at an Oregon Title V Operating Permit program source must be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, including those requirements that apply to categorically insignificant activities, or to evaluate the fee amount required. The application must include the elements specified below, except for renewal applications as required in section (4):

(a) Identifying information, including company name and address, plant name and address if different from the company's name, owner's name and agent, and telephone number and names of plant site manager/contact;

(b) A description of the source's processes and products by Standard Industrial Classification Code including any associated with each alternative operating scenario identified by the owner or operator and related flow chart;

(c) The following emissions-related information for all requested alternative operating scenarios identified by the owner or operator:

(A) All emissions of regulated pollutants for which the source is major, all emissions of regulated pollutants and all emissions of regulated pollutants listed in OAR 340-244-0040. A permit application must describe all emissions of regulated pollutants emitted from any emissions unit, except where such units are exempted under this section~~(3)~~. DEQ may require additional information related to the emissions of regulated pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed;

(B) Identification and description of all points of emissions described in paragraph (3)(c)(A) in sufficient detail to establish the basis for fees and applicability of requirements of the FCAA and state rules;

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method and to establish PSELs for all regulated pollutants except as restricted by OAR 340-222-0035 and 340-222-0060:

(i) If a short term PSEL is required, an applicant may request that a period longer than daily be used for the short term PSEL provided that the requested period is consistent with the means for demonstrating compliance with any other applicable requirement and the PSEL requirement, and:

(I) The requested period is no longer than the shortest period of the Ambient Air Quality Standards for the regulated pollutant or daily for VOC and NOx; or

(II) The applicant demonstrates that the requested period, if longer than the shortest period of the Ambient Air Quality Standards for the regulated pollutant, is the shortest period compatible with source operations but no longer than monthly.

(ii) The requirements of the applicable rules must be satisfied for any requested increase in PSELs, establishment of baseline emissions rates, requested emission reduction credit banking, or other PSEL changes.

(D) Additional information as determined to be necessary to establish any alternative emission limit under OAR 340-226-0400, if the permit applicant requests one;

(E) The application must include a list of all categorically insignificant activities and an estimate of all emissions of regulated pollutants from those activities which are designated insignificant because of aggregate insignificant emissions. Owners or operators that use more than 100,000 pounds per year of a mixture that contains not greater than 1% by weight of any chemical or compound regulated under divisions 200 through 268 of this chapter, and not greater than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens must contact the supplier and manufacturer of the mixture to try and obtain information other than Material Safety Data Sheets in order to quantify emissions;

(F) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel sulfur content, fuel use, raw materials, production rates, and operating schedules;

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

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

(I) Identification and description of air pollution control devices, including estimated efficiency of the control devices, and compliance monitoring devices or activities;

(J) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Oregon Title V Operating Permit program source;

(K) Other information required by any applicable requirement, including information related to stack height limitations developed pursuant to OAR 340-212-0130;

(L) Calculations on which the information in items (A) through (K) is based;

(M) The most recent information reported through EPA's Toxics Release Inventory program at the time of application submittal, if the source is subject to the program; and

(N) When required by DEQ, an air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225, demonstrating that the emissions, including reductions due to air pollution control devices or permitted limits on production capacity, will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202.

(d) A plot plan showing the location of all emissions units identified by Universal Transverse Mercator or "UTM" as provided on United States Geological Survey maps and the nearest residential or commercial property;

(e) The following air pollution control requirements:

(A) Citation and description of all applicable requirements; and

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(f) The following monitoring, recordkeeping, and reporting requirements:

(A) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including OAR 340-212-0200 through 340-212-0280;

(B) Proposed periodic monitoring to determine compliance where an applicable requirement does not require periodic testing or monitoring;

(C) The proposed use, maintenance, and installation of monitoring equipment or methods, as necessary;

(D) Documentation of the applicability of the proposed monitoring protocol, such as test data and engineering calculations;

(E) Proposed consolidation of reporting requirements, where possible;

(F) A proposed schedule of submittal of all reports; and

(G) Other similar information as determined by DEQ to be necessary to protect human health or the environment or to determine compliance with applicable requirements.

(g) Other specific information that may be necessary to implement and enforce other applicable requirements of the FCAA or state rules or of this division or to determine the applicability of such requirements;

(h) An explanation of any proposed exemptions from otherwise applicable requirements.

(i) A copy of any existing permit attached as part of the permit application. Owners or operators may request that DEQ make a determination that an existing permit term or condition is no longer applicable by supplying adequate information to support such a request. The existing permit term or condition will remain in effect unless or until DEQ determines that the term or condition is no longer applicable by permit modification.

(j) Additional information as determined to be necessary by DEQ to define permit terms and conditions implementing off-permit changes for permit renewals;

(k) Additional information as determined to be necessary by DEQ to define permit terms and conditions implementing section 502(b)(10) changes for permit renewals;

(l) Additional information as determined to be necessary by DEQ to define permit terms and conditions implementing emissions trading under the PSEL including but not limited to proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable if the applicant requests such trading;

(m) Additional information as determined to be necessary by DEQ to define permit terms and conditions implementing emissions trading, to the extent that the applicable requirements provide for trading without a case-by-case approval of each emissions trade if the applicant requests such trading;

(n) A compliance plan that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements.

(B) A description as follows:

(i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(C) A compliance schedule as follows:

(i) For applicable requirements with which the source is in compliance, a statement that the

source will continue to comply with such requirements;

(ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A generic statement that the source will meet in a timely manner applicable requirements that become effective during the permit term will satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement;

(iii) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule will include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance and interim measures to be taken by the source to minimize the amount of excess emissions during the scheduled period. This compliance schedule must resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance must be supplemental to, and must not sanction noncompliance with, the applicable requirements on which it is based.

(D) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.

(E) The compliance plan content requirements specified in this section will apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the FCAA with regard to the schedule and method the source will use to achieve compliance with the acid rain emissions limitations.

(o) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements by a responsible official consistent with section (6~~5~~) and section 114(a)(3) of the FCAA;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by DEQ; and

(D) A statement indicating the source's compliance status with any applicable compliance assurance monitoring and compliance certification requirements of the FCAA or state rules.

(p) A Land Use Compatibility Statement (LUCS), when required by OAR chapter 340, division 018:

(A) ~~if applicable,~~ Signed by the applicable local planning jurisdiction(s) to assure that the type of land use and activities in conjunction with that use have been reviewed and approved

as compatible with the applicable local jurisdiction's acknowledged comprehensive plan, ~~by local government~~ before a permit is processed and issued. If DEQ receives a LUCS which states that the proposed action is incompatible with the acknowledged comprehensive plan, DEQ shall notify the applicant that the application cannot be processed; or

(B) If the local planning jurisdiction declines to provide a LUCS determination in response to a request for a LUCS, the owner or operator must provide DEQ with its own analysis to demonstrate that the proposed action complies with all applicable statewide planning goals.

(q) The use of nationally standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the FCAA.

(r) For purposes of permit renewal, the owner or operator must submit all information as required in section (3). The owner or operator may identify information in its previous permit or permit application for emissions units that should remain unchanged and for which no changes in applicable requirements have occurred and provide copies of the previous permit or permit application for those emissions units.

(4) Permit Renewal Applications. Any person required to renew an existing permit must submit a complete application using forms provided by DEQ, unless otherwise allowed in writing by DEQ. The renewal application must include:

(a) All information identified in section (3) that has changed since the last permit renewal or issuance;

(b) A complete list of all emissions units, including all air pollution control devices, and all categorically and aggregate insignificant activities;

(c) 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;

(d) All changes to the source since the last permit issuance and all requirements applicable to those changes; and

(e) When required by DEQ, an air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225, demonstrating that the source's emissions, including reductions due to air pollution control devices or permitted limits on production capacity, will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202.

(5~~4~~) Quantifying Emissions:

(a) When quantifying emissions for purposes of a permit application, modification, or renewal an owner or operator must use the most representative data available or required in a permit condition. DEQ will consider the following data collection methods as acceptable for determining air emissions:

(A) Continuous emissions monitoring system data obtained using the DEQ Continuous

Monitoring Manual [NOTE: DEQ Manuals are published with OAR 340-200-0035];

(B) Source testing data obtained using the DEQ Source Sampling Manual except where material balance calculations are more accurate and more indicative of an emissions unit's continuous operation than limited source test results (e.g. a volatile organic compound coating operation) [NOTE: DEQ Manuals are published with OAR 340-200-0035];

(C) Material balance calculations;

(D) Emission factors subject to Department review and approval; and

(E) Other methods and calculations subject to Department review and approval.

(b) When continuous monitoring or source test data has previously been submitted to and approved by DEQ for a particular emissions unit, that information must be used for quantifying emissions. Material balance calculations may be used as the basis for quantifying emissions when continuous monitoring or source test data exists if it can be demonstrated that the results of material balance calculations are more indicative of actual emissions under normal continuous operating conditions. Emission factors or other methods may be used for calculating emissions when continuous monitoring data, source test data, or material balance data exists if the owner or operator can demonstrate that the existing data is not representative of actual operating conditions. When an owner or operator uses emission factors or other methods as the basis of calculating emissions, a brief justification for the validity of the emission factor or method must be submitted with the calculations. DEQ will review the validity of the emission factor or method during the permit application review period. When an owner or operator collects emissions data that is more representative of actual operating conditions, either as required under a specific permit condition or for any other requirement imposed by DEQ, the owner or operator must use that data for calculating emissions when applying for a permit modification or renewal. Nothing in this provision requires owners or operators to conduct monitoring or testing solely for the purpose of quantifying emissions for permit applications, modifications, or renewals.

(65) Any application form, report, or compliance certification submitted pursuant to this division must contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this division must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

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

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.050 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 130-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2120
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & ef. 10-28-94
DEQ 19-1993, f. & ef. 11-4-93
DEQ 13-1993, f. & ef. 9-24-93

340-218-0050
Standard Permit Requirements

Each permit issued under this division must include the following elements:

(1) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance:

(a) The permit must specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based;

(b) To ensure the source's emission will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202:

(A) Any physical or operational limitation, including any combination of the use of control devices, restrictions on hours of operation, or restrictions on the type or amount of materials combusted, stored, or processed, will be included as permit conditions to limit short term emissions for all emissions units that require controls or limitations; or

(B) A requirement to conduct ambient monitoring to confirm a new exceedance of a National Ambient Air Quality Standard. Ambient monitoring and meteorological monitoring must be conducted in accordance with a DEQ approved monitoring plan for a period of not less than 12 months. There must be at least 12 months of valid data with greater than 75 percent data completeness per quarter;

(c~~b~~) For sources regulated under the national acid rain program, the permit must state that, where an applicable requirement of the FCAA or state rules is more stringent than an applicable requirement of regulations promulgated under Title IV of the FCAA, both provisions must be incorporated into the permit and will be enforceable by the EPA;

(d~~c~~) For any alternative emission limit established using OAR 340-226-0400, the permit must contain an equivalency determination and provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(2) Permit duration. DEQ will issue permits for a fixed term of 5 years in the case of affected sources, and for a term not to exceed 5 years in the case of all other sources.

(3) Monitoring and related recordkeeping and reporting requirements:

(a) Each permit must contain the following requirements with respect to monitoring:

(A) A monitoring protocol to provide accurate and reliable data that:

(i) Is representative of actual source operation;

(ii) Is consistent with the averaging time in the permit emission limits;

(iii) Is consistent with monitoring requirements of other applicable requirements; and

(iv) Can be used for compliance certification and enforcement.

(B) All emissions monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including OAR 340-212-0200 through 340-212-0280 and any other procedures and methods that may be promulgated pursuant to sections 504(b) or 114(a)(3) of the FCAA. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;

(C) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to OAR 340-218-0050(3)(c). Such monitoring requirements must assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Continuous monitoring and source testing must be conducted using the DEQ Continuous Monitoring Manual and the Source Sampling Manual, respectively. [NOTE: DEQ manuals are published with OAR 340-200-0035.] Other monitoring must be conducted using DEQ approved procedures. The monitoring requirements may include but are not limited to any combination of the following:

(i) Continuous emissions monitoring systems (CEMS);

(ii) Continuous opacity monitoring systems (COMS);

(iii) Continuous parameter monitoring systems (CPMS);

(iv) Continuous flow rate monitoring systems (CFRMS);

(v) Source testing;

(vi) Material balance;

(vii) Engineering calculations;

(viii) Recordkeeping; or

(ix) Fuel analysis; and

(D) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods;

(E) A condition that prohibits any person from knowingly rendering inaccurate any required monitoring device or method;

(F) Methods used in OAR chapter 340, division 220 to determine actual emissions for fee purposes must also be used for compliance determination and can be no less rigorous than the requirements of OAR 340-218-0080. The compliance monitoring protocol must include the method used to determine the amount of actual emissions;

(G) Monitoring requirements must commence on the date of permit issuance unless otherwise specified in the permit.

(b) With respect to recordkeeping, the permit must incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(A) Records of required monitoring information that include the following:

(i) The date, place as defined in the permit, and time of sampling or measurements;

(ii) The date analyses were performed;

(iii) The company or entity that performed the analyses;

(iv) The analytical techniques or methods used;

(v) The results of such analyses;

(vi) The operating conditions as existing at the time of sampling or measurement; and

(vii) The records of quality assurance for continuous monitoring systems (including but not limited to quality control activities, audits, calibrations drifts).

(B) Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit;

(C) Recordkeeping requirements must commence on the date of permit issuance unless otherwise specified in the permit.

(c) With respect to reporting, the permit must incorporate all applicable reporting requirements and require the following:

(A) Submittal of ~~three (3) copies~~one (1) electronic copy of reports of any required monitoring

at least every 6 months, unless otherwise required by permit, completed on forms approved by DEQ. Unless otherwise approved in writing by DEQ, six-month periods are January 1 to June 30, and July 1 to December 31. The reports required by this rule must be submitted within 30 days after the end of each reporting period, unless otherwise approved in writing by DEQ. One copy of the report must be submitted to the EPA, and two copies to DEQ's regional office identified in the permit. All instances of deviations from permit requirements must be clearly identified in such reports:

(i) The semi-annual report will be due on July 30, unless otherwise approved in writing by DEQ, and must include the semi-annual compliance certification, OAR 340-218-0080;

(ii) The annual report will be due on February 15, unless otherwise approved in writing by DEQ, but may not be due later than March 15, and must consist of the annual reporting requirements as specified in the permit; the emission fee report; the emission statement, if applicable, OAR 340-214-0220; the annual certification that the risk management plan is being properly implemented, 340-218-0050; and the semi-annual compliance certification, 340-218-0080.

(B) Prompt reporting of deviations from permit requirements that do not cause excess emissions, including those attributable to upset conditions, as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. "Prompt" means within fifteen (15) days of the deviation. Deviations that cause excess emissions, as specified in OAR 340-214-0300 through 340-214-0360 must be reported under 340-214-0340;

(C) Submittal of any required source test report within 30 days after the source test unless otherwise approved in writing by DEQ or specified in a permit;

(D) All required reports must be certified by a responsible official consistent with OAR 340-218-0040(6~~5~~);

(E) Reporting requirements must commence on the date of permit issuance unless otherwise specified in the permit.

(d) DEQ may incorporate more rigorous monitoring, recordkeeping, or reporting methods than required by applicable requirements in an Oregon Title V Operating Permit if they are contained in the permit application, are determined by DEQ to be necessary to determine compliance with applicable requirements, or are needed to protect human health or the environment.

(4) A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the FCAA or the regulations promulgated there under:

(a) No permit revision will be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement;

(b) No limit may be placed on the number of allowances held by the source. The source may

not, however, use allowances as a defense to noncompliance with any other applicable requirement;

(c) Any such allowance must be accounted for according to the procedures established in regulations promulgated under Title IV of the FCAA.

(5) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(6) Provisions stating the following:

(a) The permittee must comply with all conditions of the Oregon Title V Operating Permit, including keeping a copy of the permit onsite at the source. Any permit condition noncompliance constitutes a violation of the FCAA and state rules and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application;

(b) The need to halt or reduce activity will not be a defense. It will not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit;

(c) The permit may be modified, revoked, reopened and reissued, or terminated for cause as determined by DEQ. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition;

(d) The permit does not convey any property rights of any sort, or any exclusive privilege;

(e) The permittee must furnish to DEQ, within a reasonable time, any information that DEQ may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee must also furnish to DEQ copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the EPA along with a claim of confidentiality.

(7) A provision to ensure that an Oregon Title V Operating Permit program source pays fees to DEQ consistent with the fee schedule in OAR chapter 340, division 220.

(8) Terms and conditions for reasonably anticipated alternative operating scenarios identified by the owner or operator in its application as approved by DEQ. Such terms and conditions:

(a) Must require the owner or operator, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

(b) Must extend the permit shield described in OAR 340-218-0110 to all terms and conditions under each such alternative operating scenario; and

(c) Must ensure that the terms and conditions of each such alternative operating scenario meet all applicable requirements and the requirements of this division.

(9) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with the PSELs. Such terms and conditions:

(a) Must include all terms required under OAR 340-218-0050 and 340-218-0080 to determine compliance;

(b) Must extend the permit shield described in OAR 340-218-0110 to all terms and conditions that allow such increases and decreases in emissions;

(c) Must ensure that the trades are quantifiable and enforceable;

(d) Must ensure that the trades are not Title I modifications;

(e) Must require a minimum 7-day advance, written notification to DEQ and the EPA of the trade that must be attached to DEQ's and the source's copy of the permit. The written notification must state when the change will occur and must describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit; and

(f) Must meet all applicable requirements and requirements of this division.

(10) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emission trade. Such terms and conditions:

(a) Must include all terms required under OAR 340-218-0050 and 340-218-0080 to determine compliance;

(b) Must extend the permit shield described in OAR 340-218-0110 to all terms and conditions that allow such increases and decreases in emissions; and

(c) Must meet all applicable requirements and requirements of this division.

(11) Terms and conditions allowing for off-permit changes, OAR 340-218-0140(2).

(12) Terms and conditions allowing for section 502(b)(10) changes, OAR 340-218-0140(3).

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

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 131-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 10-2008, f. & cert. ef. 8-25-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2130
DEQ 21-1998, f. & cert. ef. 10-14-98
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & ef. 10-28-94
DEQ 13-1993, f. & ef. 9-24-93

340-218-0080
Compliance Requirements

All Oregon Title V Operating Permits must contain the following elements with respect to compliance:

(1) Consistent with OAR 340-218-0050(3), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit.

(2) A requirement that any document (including but not limited to reports) required by an Oregon Title V Operating Permit must contain a certification by a responsible official or the designated representation for the acid rain portion of the permit that meets the requirements of OAR 340-218-0040(65).

(3) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee must allow DEQ or an authorized representative to perform the following:

(a) Enter upon the permittee's premises where an Oregon Title V Operating Permit program source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control devices), practices, or operations regulated or required under the permit; and

(d) As authorized by the FCAA or state rules, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(4) A schedule of compliance consistent with OAR 340-218-0040(3)(n)(Cc).

(5) Progress reports consistent with an applicable schedule of compliance and OAR 340-218-0040(3)(n)(Cc) to be submitted at least semi-annually, or at a more frequent period if specified in the applicable requirement or by DEQ. Such progress reports must contain the following:

(a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(6) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits must include each of the following:

(a) The frequency (not less than annually or such more frequent periods as specified in the applicable requirement or by DEQ) of submissions of compliance certifications;

(b) Under OAR 340-218-0050(3), a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;

(c) A requirement that the compliance certification include all of the following (provided that the identification of applicable information may cross-reference the permit or previous reports, as applicable):

(A) The identification of each term or condition of the permit that is the basis of the certification;

(B) The identification of the method or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means must include, at a minimum, the methods and means required under OAR 340-218-0050(3). If necessary, the owner or operator also must identify any other material information that must be included in the certification to comply with section 113(c)(2) of the FCAA, which prohibits knowingly making a false certification or omitting material information;

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification must be based on the method or means designated in paragraph (6)(c)(B). The certification must identify each deviation and take it into account in the compliance certification. The certification must also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under OAR 340-200-0020 and 40 CFR part 64 occurred; and

(D) Such other facts as DEQ may require to determine the compliance status of the source.

(d) A requirement that all compliance certifications be submitted to the EPA as well as to DEQ; and

(e) Notwithstanding any other provision contained in any applicable requirement, the owner or operator may use monitoring as required under OAR 340-218-0050(3) and incorporated into the permit, in addition to any specified compliance methods, for the purpose of submitting compliance certifications.

(7) Annual certification that the risk management plan is being properly implemented under 40 CFR Part 68~~, OAR 340-244-0230~~.

(8) Such other provisions as DEQ may require in order to protect human health or the environment.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040, 468A.050 & 468A.310
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2160
DEQ 21-1998, f. & cert. ef. 10-14-98
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 12-1993, f. & cert. ef. 9-24-93

340-218-0150
Administrative Permit Amendments

(1) An "administrative permit amendment" is a permit revision that:

(a) Corrects typographical errors;

(b) Identifies a change in the name, address, or phone number of the responsible official identified in the permit, or provides a similar minor administrative change at the source;

(c) Allows for a change in the name of the permittee;

(d) Allows for a change in ownership or operational control of a source where DEQ determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to DEQ;

(e) Requires more frequent monitoring or reporting by the permittee;

(f) Allows for a change in the date for reporting or source testing requirements for a source or emissions unit that is temporarily shut down or would otherwise have to be operated solely for the purposes of conducting the source test, except when required by a compliance schedule;

(g) Relaxes monitoring, reporting or recordkeeping due to a permanent source shutdown for only the emissions unit being shut down; or

(h) Incorporates into the Oregon Title V Operating Permit the requirements from preconstruction review permits authorized under OAR chapter 340, division 224 or OAR 340-210-0205 through 340-210-0250, provided that the procedural requirements followed in the preconstruction review are substantially equivalent to the requirements of 340-218-0120 through 340-218-0210 and 340-218-0230 that would be applicable to the change if it were subject to review as a permit modification, compliance requirements are substantially equivalent to those contained in 340-218-0050 through 340-218-0110, and no changes in the construction or operation of the facility that would require a permit modification under 340-218-0160 through 340-218-0180 have taken place.

(2) Administrative permit amendments for purposes of the national acid rain portion of the permit will be governed by regulations promulgated under Title IV of the FCAA.

(3) Administrative permit amendment procedures. An administrative permit amendment will be made by DEQ consistent with the following:

(a) The owner or operator must promptly submit an application for an administrative permit amendment, along with the applicable fees, upon becoming aware of the need for one on forms provided by DEQ along with a copy of the draft amendment;

(b) DEQ will take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this rule;

(c) DEQ will issue the administrative permit amendment in the form of a permit addendum for only those conditions that will change;

(d) DEQ will submit a copy of the permit addendum to the EPA;

(e) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request;

(f) If the source fails to comply with its draft permit terms and conditions upon submittal of the application and until DEQ takes final action, the existing permit terms and conditions it seeks to modify may be enforced against it.

(4) DEQ must, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAR 340-218-0110 only for administrative permit amendments made pursuant to OAR 340-218-0150(1)(h) which meet the relevant requirements of OAR 340-218-0050 through 340-218-0240 for significant permit modifications.

(5) If it becomes necessary for DEQ to initiate an administrative amendment to the permit, DEQ will notify the permittee of the intended action by certified or registered mail. The action will become effective 20 days after the date of mailing unless within that time the permittee makes a written request for a hearing. The request must state the grounds for the hearing. Any hearing held will be conducted pursuant to the applicable provisions of ORS

183 and OAR chapter 340, division 11.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 132-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2230
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & ef. 10-28-94
DEQ 12-1993, f. & cert. ef. 9-24-93

340-218-0170
Minor Permit Modifications

(1) Criteria:

(a) Minor permit modification procedures may be used only for those permit modifications that:

(A) Do not violate any applicable requirement;

(B) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

(C) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(D) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

(i) A federally enforceable emissions cap assumed to avoid classification as a Title I modification; and

(ii) An alternative emissions limit approved pursuant to OAR 340-244-0100 through 340-244-0180.

(E) Do not increase emissions over the PSEL;

(F) Are not Title I modifications; and

(G) Are not required by OAR 340-218-0180 to be processed as a significant modification.

(b) Notwithstanding subsection (1)(a), minor permit modification procedures may be used for permit modifications involving the use of emissions trading and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the Oregon SIP or in applicable requirements promulgated by the EPA.

(2) Minor permit modification procedures. A minor permit modification will be made by DEQ consistent with the following:

(a) Application. An application requesting the use of minor permit modification procedures must meet the requirements of OAR 340-218-0040(3), must be submitted on forms and electronic formats provided by DEQ, along with the applicable fees, and must include the following additional information:

(A) A description of the change, the change in emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) The source's suggested draft permit;

(C) Certification by a responsible official, consistent with OAR 340-218-0040(6~~5~~), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(D) Completed forms for DEQ to use to notify the EPA and affected states as required under OAR 340-218-0230.

(b) EPA and affected state notification. Within five working days of receipt of a complete minor permit modification application, DEQ will meet its obligation under OAR 340-218-0230(1)(a) and (2)(a) to notify the EPA and affected states of the requested permit modification. DEQ promptly will send any notice required under OAR 340-218-0230(2)(b) to the EPA;

(c) Timetable for issuance. DEQ will not issue a final permit modification until after the EPA's 45-day review period or until the EPA has notified DEQ that the EPA will not object to issuance of the permit modification, whichever is first, although DEQ can approve the permit modification prior to that time. Within 90 days of DEQ's receipt of an application under minor permit modification procedures or 15 days after the end of the EPA's 45-day review period under OAR 340-218-0230(3), whichever is later, DEQ will:

(A) Issue the permit modification as proposed for only those conditions that will change;

(B) Deny the permit modification application;

(C) Determine that the requested modification does not meet the minor permit modification criteria and must be reviewed under the significant modification procedures; or

(D) Revise the draft permit modification and transmit to the EPA the new proposed permit modifications as required by OAR 340-218-0230(1).

(d) Source's ability to make change. The source may make the change proposed in its minor permit modification application immediately after it files an application. After the source makes the change, and until the permitting authority takes any of the actions specified in paragraphs (2)(c)(A) through (C), the source must comply with both the applicable requirements governing the change and the draft permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its draft permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it;

(e) DEQ may initiate enforcement if the modification has been initiated and does not meet the minor permit modification criteria;

(f) Permit shield. The permit shield under OAR 340-218-0110 does not extend to minor permit modifications.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2250
DEQ 12-1993, f. & cert. ef. 9-24-93

340-218-0180
Significant Permit Modifications

(1) Criteria. Significant modification procedures must be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. Significant modifications ~~must~~ include:

(a) Increases in PSELs except those increases subject to OAR 340-210-0205 through 340-210-0250; or OAR chapter 340, division 224;

(b) Every significant change in existing monitoring permit terms or conditions;

(c) Every relaxation of reporting or recordkeeping permit terms or conditions;

(d) Incorporation into the Oregon Title V Operating Permit the requirements from pre-construction review permits authorized under OAR chapter 340, division 224 unless the incorporation qualifies as an administrative amendment;

(e) Incorporation into the Oregon Title V Operating Permit the requirements from preconstruction review permits authorized under OAR 340-210-205 through 340-210-0250 unless otherwise specified in 340-218-0190(2); and

(f) Nothing herein may be construed to preclude the permittee from making changes consistent with this division that would render existing permit compliance terms and

conditions irrelevant.

(2) Significant permit modifications will be subject to all requirements of this division, including those for applications, applicable fees, public participation, review by affected States, and review by the EPA, as they apply to permit issuance and permit renewal.

(3) Major modifications, as defined in OAR 340-200-0020, require an ACDP under OAR chapter 340, division 224.

(4) Constructed and reconstructed major hazardous air pollutant sources are subject to OAR 340--210-0205 through 340-210-0250 and OAR 340-244-0200.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2260
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 12-1993, f. & cert. ef. 9-24-93

340-218-0240
Enforcement

(1) No person may violate the conditions of any Oregon Title V Operating Permit issued to the person under this division.

(2~~1~~) Whenever it appears to DEQ that any activity in violation of a permit that results in air pollution or air contamination is presenting an imminent and substantial endangerment to the public health, DEQ may enter a cease and desist order pursuant to ORS 468.115 or seek injunction relief pursuant to 468.100.

(3~~2~~)(a) Whenever DEQ has good cause to believe that any person is engaged in or about to engage in acts or practices that constitute a violation of any part of the stationary source air permitting rules or any provision of a permit issued pursuant to these rules, DEQ may seek injunctive relief in court to enforce compliance thereto or to restrain further violations;

(b) The proceedings authorized by subsection (a) may be instituted without the necessity of prior agency revocation of the permit or during a permit revocation proceeding if one has been commenced.

(4~~3~~) In addition to the enforcement authorities contained in sections (2~~1~~) and (3~~2~~) and any other penalty provided by law, any person who violates any of the following will incur a civil penalty as authorized under ORS 468.140 and established pursuant to OAR chapter 340, division 12:

(a) Any applicable requirement;

(b) Any permit condition;

(c) Any fee or filing requirements;

(d) Any duty to allow or carry out inspection, entry or monitoring activities; or

(e) Any rules or orders issued by DEQ.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2320
DEQ 12-1993, f. & cert. ef. 9-24-93

Division 220
OREGON TITLE V OPERATING PERMIT FEES

340-220-0180
Late and Underpayment of Fees

(1) Notwithstanding any enforcement action, the owner or operator will be subject to a late payment fee of:

(a) Two hundred dollars for payments ~~postmarked~~ received more than seven ~~or~~ and less than 30 days late; and

(b) Four hundred dollars for payments ~~postmarked~~ received on or after 30 days late.

(2) Notwithstanding any enforcement action, DEQ may assess an additional fee of the greater of $400 or 20 percent of the amount underpaid for substantial underpayment.

Statutory/Other Authority: ORS 468.020, 468.065, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2730
DEQ 13-1994, f. & cert. ef. 5-19-94
DEQ 20-1993(Temp), f. & cert. ef. 11-4-93

Division 222
STATIONARY SOURCE PLANT SITE EMISSION LIMITS

340-222-0020
Applicability and Jurisdiction

(1) Plant Site Emission Limits (PSELs) will be included in all Air Contaminant Discharge Permits (ACDP) and Oregon Title V Operating Permits, except as provided in section (3), as a means of managing airshed capacity by regulating increases and decreases in air emissions. Except as provided in OAR 340-222-0035(5) and 340-222-0060, all ACDP and Oregon Title V Operating Permit sources are subject to PSELs for all regulated pollutants listed in the definition of SER in 340-200-0020. DEQ will incorporate PSELs into permits when issuing a new permit or renewing or modifying an existing permit.

(2) The emissions limits established by PSELs provide the basis for:

(a) Assuring reasonable further progress toward attaining compliance with ambient air quality standards;

(b) Assuring compliance with ambient air quality standards and PSD increments;

(c) Administering offset and banking programs; and

(d) Establishing the baseline for tracking the consumption of PSD increments.

(3) PSELs are not required for:

(a) Regulated pollutants that will be emitted at less than the de minimis emission level listed in OAR 340-200-0020 from the entire source;

(b) Short Term Activity and Basic ACDPs;

(c) Hazardous air pollutants as listed in OAR 340-244-0040 Table 1; high-risk pollutants listed in 40 CFR 63.74; ~~or~~ accidental release substances listed in 40 CFR 68.130; ~~or air~~ toxic air contaminants listed in OAR chapter 340, division 246; or toxic air contaminants listed in OAR chapter 340, division 247; except that PSELs are required for pollutants identified in this subsection that are also listed in the definition of SER, 340-200-0020; or

(d) General ACDPs or General Oregon Title V Operating Permits where federally enforceable limits on potential to emit, such as a physical or operational limit, are used rather than a PSEL.

~~(4) PSELs may be generic PSELs, source specific PSELs set at the generic PSEL levels, or source specific PSELs set at source specific levels.~~

~~(a) A source with a generic PSEL cannot maintain a netting basis for that regulated pollutant.~~

~~(b) A source with a source specific PSEL that is set at the generic PSEL level may maintain a netting basis for that regulated pollutant provided the source is operating under a Standard ACDP or Title V Operating permit.~~

(45) 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 that EQC adopted under OAR 340-200-0040.

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

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 11-2008, f. & cert. ef. 8-29-08
DEQ 4-2008(Temp), f. 3-4-08, cert. ef. 3-6-08 thru 9-1-08
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1010
DEQ 14-1998, f. & cert. ef. 9-14-98
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0301
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 25-1981, f. & cert. ef. 9-8-81

340-222-0035
General Requirements for Establishing All PSELs

(1) PSELs may not exceed limits established by any applicable federal or state regulation or by any specific permit conditions unless the source meets the specific provisions of OAR 340-226-0400 (Alternative Emission Controls).

(2) DEQ may change ~~source specific~~ PSELs at the time of a permit renewal, or if DEQ modifies a permit pursuant to OAR 340-216-0084, Department Initiated Modifications, or 340-218-0200, Reopenings, if:

(a) DEQ determines errors were made in calculating the PSELs or more accurate and reliable data is available for calculating PSELs; or

(b) More stringent control is required by a rule adopted by the EQC.

(3) PSEL reductions required by rule, order or permit condition will be effective on the compliance date of the rule, order, or permit condition.

(4) Annual PSELs apply on a rolling 12-~~-~~consecutive month basis and limit the source's potential to emit.

(5) PSELs do not include emissions from categorically insignificant activities. Emissions

from categorically insignificant activities must be considered when determining Major NSR or Type A State NSR applicability under OAR chapter 340, division 224.

(6) PSELs must include aggregate insignificant emissions, if applicable. Emissions from aggregate insignificant activities must be considered when determining Major NSR or State NSR applicability under OAR chapter 340, division 224.

NOTE: This rule was moved verbatim from OAR 340-222-0043 and 340-222-0070 and amended on 04-16-15. Previous rule history for OAR 340-222-0043: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01. Previous rule history for OAR 340-222-0070: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 2-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1060; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
Renumbered from 340-222-0043, DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

~~**340-222-0040**~~
~~**Generic Annual PSEL**~~

~~(1) Sources with capacity less than the SER will receive a generic PSEL unless they have a netting basis and request a source specific PSEL under OAR 340-222-0041.~~

~~(2) A generic PSEL may be used for any regulated pollutant that will be emitted at less than the SER.~~

~~(3) The netting basis for a source with a generic PSEL is zero for that regulated pollutant.~~

~~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, 468A.025, 468A.040 & 468A.310~~
~~**Statutes/Other Implemented:** ORS 468A~~
~~**History:**~~
~~DEQ 7-2015, f. & cert. ef. 4-16-15~~
~~DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01~~
~~DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1020~~
~~DEQ 22-1995, f. & cert. ef. 10-6-95~~
~~DEQ 19-1993, f. & cert. ef. 11-4-93~~
~~DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0310~~

~~DEQ 4-1993, f. & cert. ef. 3-10-93~~
~~DEQ 25-1981, f. & ef. 9-8-81~~

340-222-0041
~~Source Specific~~ Annual PSEL

(1) For sources subject to a General ACDP or a General Oregon Title V Operating Permit~~with potential to emit less than the SER that request a source specific PSEL~~, ~~the source specific~~ a PSEL ~~will~~ may be set ~~equal to the generic PSEL level~~based on the potential to emit of the largest emitting source in that source category for all sources on that permit type in the state. PSELs will be set for all regulated pollutants emitted at more than the de minimis emission level.

(2) For sources subject to a Simple ACDP, a PSEL will be set equal to the source's potential to emit.

(3~~2~~) For sources subject to a Standard ACDP or an Oregon Title V Operating Permit, a PSEL ~~For sources with potential to emit greater than or equal to the SER, the source specific PSEL~~ will be set equal to the source's potential to emit, netting basis or a level requested by the applicant, whichever is less, except as provided in section (4~~3~~) or (5~~4~~).

(4~~3~~) The initial ~~source specific~~ PSEL for PM2.5 for a source that was permitted on or before May 1, 2011 with potential to emit greater than or equal to the SER will be set equal to the PM2.5 fraction of the PM10 PSEL in effect on May 1, 2011.

(a) Any source with a permit in effect on May 1, 2011 is eligible for an initial PM2.5 PSEL without being otherwise subject to ~~OAR 340-222-0041~~section (5~~4~~).

(b) For a source that had a permit in effect on May 1, 2011 but later needs to correct its PM10 PSEL that was in effect on May 1, 2011 due to more accurate or reliable information, the corrected PM10 PSEL will be used to correct the initial PM2.5 PSEL.

(A) Correction of a PM10 PSEL will not by itself trigger ~~OAR 340-222-0041~~section (5~~4~~) for PM2.5.

(B) Correction of a PM10 PSEL could result in further requirements for PM10 in accordance with all applicable regulations.

(c) If after establishing the initial PSEL for PM2.5 in accordance with this rule and establishing the initial PM2.5 netting basis in accordance with OAR 340-222-0046, the PSEL is more than nine tons above the netting basis, any future increase in the PSEL for any reason would be subject to ~~340-222-0041~~section (5~~4~~).

(5~~4~~) If an applicant wants an annual PSEL at a rate greater than the netting basis, the applicant must, consistent with OAR 340-222-0035:

(a) Demonstrate that the requested increase over the netting basis is less than the SER; or

(b) For increases equal to or greater than the SER over the netting basis, demonstrate that the applicable Major NSR or State NSR requirements in OAR chapter 340, division 224 have been satisfied, except that:

(A) ~~a~~An increase in the PSEL for GHGs is subject to the requirements of NSR specified in OAR 340-224-0010(1)(c) only if the criteria in OAR 340-224-0010(1)(c) are met; and

(B) An increase in the PSEL for particulate matter (PM) is not subject to the air quality analysis but an air quality analysis is required for PM10 or PM2.5 increases, if applicable.

(6~~5~~) If the netting basis is adjusted in accordance with OAR 340-222-0051(3), then the ~~source specific~~ PSEL is not required to be adjusted.

(7~~6~~) For sources that meet the criteria in subsections (a), (b) and (c), the requirements of ~~OAR 340-222-0041~~section (~~4~~5) do not immediately apply, but any future increase in the PSEL greater than or equal to the de minimis level for any reason is subject to ~~OAR 340-222-0041~~section (~~4~~5).

(a) A PSEL is established or revised to include emissions from activities that both existed at a source and were defined as categorically insignificant activities prior to April 16, 2015;

(b) The PSEL exceeds the netting basis by more than or equal to the SER solely as a result of a revision described in subsection (a); and

(c) The source would not have been subject to Major NSR or Type A State NSR under the applicable requirements of division 224 prior to April 16, 2015 if categorically insignificant activities had been considered.

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 11-2002, f. & cert. ef. 10-8-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-222-0042
Short Term PSEL

(1) For sources located in areas with an established short term SER that is measured over an averaging period less than a full year, PSELs are required on a short term basis for those regulated pollutants that have a short term SER. The short term averaging period is daily, unless emissions cannot be monitored on a daily basis. The averaging period for short term PSELs can never be greater than monthly.

(a) For new and existing sources with potential to emit less than the short term SER, the short

term PSEL will be set equal to the ~~level of the~~ short term ~~generic PSEL~~potential to emit.

(b) For existing sources with potential to emit greater than or equal to the short term SER, a short term PSEL will be set equal to the source's short term potential to emit or to the current permit's short term PSEL, whichever is less.

(c) For new sources with potential to emit greater than or equal to the short term SER, the initial short term PSEL will be set at the level requested by the applicant provided the applicant meets the requirements of (2)(b).

(2) If a permittee requests an increase in a short term PSEL that will exceed the short term netting basis by an amount equal to or greater than the short term SER, the permittee must satisfy the requirements of subsections (a) or (b). In order to satisfy the requirements of subsection (a) or (b), the short term PSEL increase must first be converted to an annual increase by multiplying the short term increase by 8,760 hours, 365 days, or 12 months, depending on the term of the short term PSEL.

(a) Obtain offsets in accordance with the offset provisions for the designated area as specified in OAR 340-224-0510 through 340-224-0530, as applicable; or

(b) Obtain an allocation from an available growth allowance in accordance with the applicable maintenance plan.

(3) Once the short term PSEL is increased pursuant to section (2), the increased level becomes the basis for evaluating future increases in the short term PSEL.

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-222-0046
Netting Basis

(1) A netting basis will only be established for those regulated pollutants that could subject a source to NSR under OAR chapter 340, division 224.

(a) The initial PM2.5 netting basis for a source that was permitted prior to May 1, 2011 will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(b) The initial greenhouse gas netting basis for a source will be established with the first

permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(2) A source's netting basis is established as specified in subsection (a), (b), or (c) and will be adjusted according to section (3):

(a) For all regulated pollutants except for PM2.5, a source's initial netting basis is equal to the baseline emission rate.

(b) For PM2.5, a source's initial netting basis is equal to the overall PM2.5 fraction of the PM10 PSEL in effect on May 1, 2011 multiplied by the PM10 netting basis in effect on May 1, 2011. DEQ may increase the initial PM2.5 netting basis by not more than 5 tons to ensure that the PM2.5 PSEL does not exceed the PM2.5 netting basis by more than the PM2.5 SER.

(A) Any source with a permit in effect on May 1, 2011 is eligible for a PM2.5 netting basis without being otherwise subject to OAR 340-222-0041(5~~4~~).

(B) For a source that had a permit in effect on May 1, 2011 but later needs to correct its PM10 netting basis that was in effect on May 1, 2011, due to more accurate or reliable information, the corrected PM10 netting basis will be used to correct the initial PM2.5 netting basis.

(i) Correction of a PM10 netting basis will not by itself trigger OAR 340-222-0041(5~~4~~) for PM2.5.

(ii) Correction of a PM10 netting basis could result in further requirements for PM10 in accordance with all applicable regulations.

(c) A source's netting basis is zero for:

(A) Any regulated pollutant emitted from a source that first obtained permits to construct and operate after the applicable baseline period for that regulated pollutant, and has not undergone NSR for that regulated pollutant, except as provided in subsection ~~(2)~~(b) for PM2.5;

(B) Any regulated pollutant for which the PSEL was set based on~~that has~~ a generic PSEL ~~in a permit~~under previously applicable rules; or

(C) Any source permitted as portable.

(3) A source's netting basis will be adjusted as follows:

(a) The netting basis will be reduced by any emission reductions required under a rule, order, or permit condition issued by the EQC or DEQ and required by the SIP or used to avoid any state (e.g., NSR) or federal requirements (e.g., NSPS, NESHAP), as of the effective date of the rule, order or permit condition;

(A) Netting basis reductions are effective on the effective date of the rule, order or permit

condition that requires the reductions;

(B) Netting basis reductions may only apply to sources that are permitted, on the effective date of the applicable rule, order or permit condition, to operate the affected devices or emissions units that are subject to the rule, order, or permit condition requiring emission reductions;

(C) Netting basis reductions will include reductions for unassigned emissions for devices or emissions units that are affected by the rule, order or permit condition, if the shutdown or over control that created the unassigned emissions occurred within five years prior to the adoption of the rule, order or permit condition that required an emission reduction unless the unassigned emissions have been used for internal netting actions. This provision applies to emission reductions that have been placed in unassigned emissions or that are eligible to be placed in unassigned emissions but the permit that would place them in unassigned emissions has not been issued.

(D) Netting basis reductions will not affect emission reduction credits established under division 268.

(E) Netting basis reductions for the affected devices or emissions units will be determined consistent with the approach used to determine the netting basis prior to the regulatory action reducing the emissions. The netting basis reduction is the difference between the emissions calculated using the previous emission rate and the emission rate established by rule, order, or permit using appropriate conversion factors when necessary.

(F) The netting basis reductions will not include emission reductions achieved under OAR 340-226-0110, 340-226-0120, or OAR chapter 340, division 244;

(b) The netting basis will be reduced by any unassigned emissions that are reduced under OAR 340-222-0055(3)(a);

(c) The netting basis will be reduced by the amount of emission reduction credits transferred off site in accordance with OAR chapter 340, division 268;

(d) The netting basis will be reduced when actual emissions are reduced according to OAR 340-222-0051(3);

(e) The netting basis will be increased by any of the following:

(A) For sources that obtained a permit on or after April 16, 2015, any emission increases approved through Major NSR or Type A State NSR action under OAR chapter 340, division 224;

(B) For sources that obtained a permit prior to April 16, 2015, any emission increases approved through the NSR regulations in OAR chapter 340, division 224 in effect at the time; or

(C) For sources where the netting basis was increased in accordance with the DEQ PSD rules

that were in effect prior to July 1, 2001, the netting basis may include emissions from emissions units that were not subject to both an air quality analysis and control technology requirements if the netting basis had been increased following the rules in effect at the time.

(f) The netting basis will be increased by any emissions from activities previously classified as categorically insignificant prior to April 16, 2015, provided the activities existed during the baseline period or at the time of the last NSR permitting action that changed the netting basis under subsection (e).

(4) In order to maintain the netting basis, permittees must maintain either a Standard ACDP or an Oregon Title V Operating Permit. A request to be assigned any other type of ACDP sets the netting basis at zero upon issuance of the other type of permit and remains at zero unless an increase is approved under subsection (3)(e).

(5) If a source relocates to a different site that DEQ determines is within or affects the same airshed, and the time between operation at the old and new sites is less than six months, the source may retain the netting basis from the old site.

(6) A source's netting basis for a regulated pollutant with a revised definition will be corrected if the source is emitting the regulated pollutant at the time the definition is revised, and the regulated pollutant is included in the source's netting basis.

(7) Where EPA requires an attainment demonstration based on dispersion modeling, the netting basis must not be more than the level used in the dispersion modeling to demonstrate attainment with the ambient air quality standard (i.e., the attainment demonstration is an emission reduction required by rule).

NOTE: This rule was moved verbatim from OAR 340-200-0020(76) and amended on 04-16-15. Previous rule history for OAR 340-200-0020: [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

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15

340-222-0060
Plant Site Emission Limits for Sources of Hazardous Air Pollutants

(1) DEQ may establish PSELs for hazardous air pollutants (HAPs) if an owner or operator requests that DEQ~~:~~

~~(a) Establish a PSEL for combined HAPs emitted for purposes of determining emission fees as prescribed in OAR~~ chapter ~~340, division 220; or~~

~~(b)~~ ~~C~~create an enforceable PTE limit.

(2) PSELs will be set only for individual or combined HAPs and will not list HAPs by name. The PSEL will be set on a rolling 12 month basis and will be ~~either:~~

~~(a) The generic PSEL if the permittee proposes a limit less than that level; or~~

~~(b) The level the permittee establishes necessary for the source if greater than the generic PSEL~~set based on the potential to emit if more than the de minimis emission level and to also comply with OAR chapter 340, division 245.

(3) The alternative emissions controls (bubble) provisions of OAR 340-226-0400 do not apply to emissions of HAPs.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2017, f. & cert. ef. 7-13-17
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1050
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 12-1993, f. & cert. ef. 9-24-93

Division 224
NEW SOURCE REVIEW

340-224-0030
New Source Review Procedural Requirements

(1) Information Required. The owner or operator of a source subject to Major NSR or State NSR must submit an application and all information DEQ needs to perform any analysis or make any determination required under this division and OAR chapter 340, division 225. The information must be in writing on forms supplied or approved by DEQ and include the information required to apply for a permit or permit modification under:

(a) OAR chapter 340, division 216 for Major NSR or Type A State NSR action; or

(b) OAR chapter 340, division 216 or 218, whichever is applicable, for Type B State NSR actions.

(2) Application Processing:

(a) For Type B State NSR, DEQ will review applications and issue permits using the procedures in OAR chapter 340, division 216 or 218, whichever is applicable.

(b) For Major NSR and Type A State NSR:

(A) Notwithstanding the requirements of OAR 340-216-0040(10~~1~~), within 30 days after receiving an ACDP permit application to construct, or any additional information or amendment to such application, DEQ will advise the applicant whether the application is complete or if there is any deficiency in the application or in the information submitted. For purposes of this section, an application is complete as of the date on which DEQ received all required information;

(B) Upon determining that an application is complete, DEQ will undertake the public participation procedures in OAR chapter 340, division 209 for a Category IV permit action; and

(C) DEQ will make a final determination on the application within twelve months after receiving a complete application.

(3) An owner or operator that obtained approval of a project under this division must obtain approval for a revision to the project according to the permit application requirements in this division and OAR chapter 340, division 216 or 218, whichever is applicable, prior to initiating the revision. If construction has commenced, the owner or operator must temporarily halt construction until a revised permit is issued. The following are considered revisions to the project that would require approval:

(a) A change that would increase permitted emissions;

(b) A change that would require a re-evaluation of the approved control technology; or

(c) A change that would increase air quality impacts.

(4) For ~~m~~Major NSR and ~~Type A~~ State NSR permit actions, an ACDP that approves construction must require construction to commence within 18 months of issuance. Construction approval terminates and is invalid if construction is not commenced within 18 months after DEQ issues such approval, or by the deadline approved by DEQ in an extension under section (5). Construction approval also terminates and is invalid if construction is discontinued for a period of 18 months or more or if construction is not completed within 18 months of the scheduled time. An ACDP may approve a phased construction project with separate construction approval dates for each subsequent phase and, for purposes of applying this section, the construction approval date for the second and subsequent phases will be treated as the construction approval issuance date.

(5) For ~~m~~Major NSR and ~~Type A~~ State NSR permit actions, DEQ may grant for good cause one or two 18-month construction approval extensions as follows:

(a) Except as provided in subsection (i), for the first extension, the owner or operator must submit an application to modify the permit that includes the following:

(A) A detailed explanation of why the source could not commence construction within the initial 18-month period; and

(B) Payment of the simple technical permit modification fee in OAR 340-216-8020 Part 3.

(b) Except as provided in subsection (i), for the second extension, the owner or operator must submit an application to modify the permit that includes the following for the original regulated pollutants subject to Major NSR or Type A State NSR:

(A) A detailed explanation of why the source could not commence construction within the second 18-month period;

(B) A review of the original LAER or BACT analysis for potentially lower limits and a review of any new control technologies that may have become commercially available since the original LAER or BACT analysis;

(C) A review of the air quality analysis to address any of the following:

(i) All ambient air quality standards and PSD increments that were subject to review under the original application;

(ii) Any new competing sources or changes in ambient air quality since the original application was submitted;

(iii) Any new ambient air quality standards or PSD increments for the regulated pollutants that were subject to review under the original application; and

(iv) Any changes to EPA approved models that would affect modeling results since the original application was submitted, and

(D) Payment of the moderate technical permit modification fee plus the modeling review fee in OAR 340-216-8020 Part 4.

(c) Except as provided in subsection (i), the permit will be terminated 54 months after it was initially issued if construction does not commence during that 54 month period. If the owner or operator wants approval to construct beyond the termination of the permit, the owner or operator must submit an application for a new Major NSR or ~~Type A~~ State NSR permit.

(d) If construction is commenced prior to the date that construction approval terminates, the permit can be renewed or the owner or operator may apply for a Title V permit as required in OAR 340-218-0190;

(e) To request a construction approval extension under subsection (a) or (b), the owner or operator must submit an application to modify the permit at least 30 days but not more than 90 days prior to the end of the current construction approval period.

(f) Construction may not commence during the period from the end of the preceding construction approval to the time DEQ approves the next extension.

(g) DEQ will make a proposed permit modification available using the following public participation procedures in OAR chapter 340, division 209:

(A) Category II for an extension that does not require an air quality analysis; or

(B) Category III for an extension that requires an air quality analysis.

(h) DEQ will grant a permit modification extending the construction approval for 18 months from the end of the first or second 18-month construction approval period, whichever is applicable, if:

(A) Based on the information required to be submitted under subsection (a) or (b), DEQ determines that the proposed source will continue to meet NSR requirements; and

(B) For any extension, the area impacted by the source has not been redesignated to sustainment or nonattainment prior to the granting of the extension.

(i) If the area where the source is located is redesignated to sustainment or nonattainment before any extension is approved, the owner or operator must demonstrate compliance with the redesignated area requirements if the source is subject to Major or Type A State NSR for the redesignated pollutant, and must obtain the appropriate permit or permit revision before construction may commence. The new permit or permit revision under this subsection will be considered to start a new initial 18-month construction approval period.

(6) Approval to construct does not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local,

state or federal law;

(7) Sources that are subject to OAR chapter 340, division 218, Oregon Title V Operating Permits, are subject to the following:

(a) Except as prohibited in subsection (b), approval to construct a source under an ACDP issued under OAR chapter 340, division 216 authorizes construction and operation of the source, until the later of:

(A) One year from the date of initial startup of operation of the source subject to Major NSR or ~~Type A~~ State NSR; or

(B) If a timely and complete application for an Oregon Title V Operating Permit is submitted, the date of final action by DEQ on the Oregon Title V Operating Permit application.

(b) Where an existing Oregon Title V Operating Permit prohibits construction or a change in operation, the owner or operator must obtain a Title V permit revision before commencing the construction, continuing the construction or making the change in operation.

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, 468A.025, 468A.035, 468A.040, 468A.050, 468A.055 & 468A.070
Statutes/Other Implemented: ORS 468A
History:
DEQ 9-2021, minor correction filed 07/01/2021, effective 07/01/2021
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1910
DEQ 26-1996, f. & cert. ef. 11-26-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & cert. ef. 10-28-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0230
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 13-1988, f. & cert. ef. 6-17-88
DEQ 18-1984, f. & ef. 10-16-84
DEQ 25-1981, f. & ef. 9-8-81

~~**340-224-0100**~~
~~**Fugitive and Secondary Emissions**~~

~~Fugitive emissions are included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions are not included in~~

~~calculations of potential emissions that are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions are added to the primary emissions and become subject to the air quality impact analysis requirements in this division and OAR 340 division 225.~~

~~**Statutory/Other Authority:** ORS 468 & 468A~~
~~**Statutes/Other Implemented:** ORS 468 & 468~~
~~**History:**~~
~~DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01~~
~~DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1990~~
~~DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0270~~
~~DEQ 4-1993, f. & cert. ef. 3-10-93~~
~~DEQ 25-1981, f. & ef. 9-8-81~~

340-224-0520
Net Air Quality Benefit Emission Offsets: Requirements for Demonstrating Net Air Quality Benefit for Ozone Areas

When directed by the Major or State NSR rules, ~~or~~ OAR 340-222-0042, or OAR 340-226-0400, the owner or operator must comply with this rule.

(1) Offsets for VOC and NOx are required if the source will be located within an ozone designated area or closer to the nearest boundary of an ozone designated area than the ozone impact distance as defined in section (2).

(2) Ozone impact distance is the distance in kilometers from the nearest boundary of an ozone designated area within which a source of VOC or NOx is considered to significantly affect that designated area. The determination of significance is made by either the formula method or the demonstration method.

(a) The Formula Method.

(A) For sources with complete permit applications submitted before Jan. 1, 2003: D = 30 km.

(B) For sources with complete permit applications submitted on or after Jan. 1, 2003: D = (Q/40) x 30 km.

(C) D is the ozone impact distance in kilometers. The value for D is 100 kilometers when D is calculated to exceed 100 kilometers. Q is the larger of the NOx or VOC emissions increase above the netting basis from the source being evaluated in tons per year.

(D) If a source is located closer than D from the nearest ozone designated area boundary, the source must obtain offsets under sections (3) and (4). If the source is located at a distance equal to or greater than D from the nearest ozone designated area boundary then the source is not required to obtain offsets.

(b) The Demonstration Method. An applicant may demonstrate to DEQ that the source or

proposed source would not have a material effect on an ozone designated area other than attainment or unclassified areas. This demonstration may be based on an analysis of major topographic features, dispersion modeling, meteorological conditions, or other factors. If DEQ determines that the source or proposed source would not have a material effect on the designated area under high ozone conditions, the ozone impact distance is zero kilometers.

(3) The required ratio of offsetting emissions reductions from other sources (offsets) to the emissions increase from the proposed source or modification (emissions) and the location of sources that may provide offsets is as follows:

(a) For new or modified sources locating within an ozone nonattainment area, the offset ratio is 1.1:1 (offsets:emissions). These offsets must come from sources within either the same designated area as the new or modified source or from sources in another ozone nonattainment area with equal or higher nonattainment classification that contributes to a violation of the ozone ambient air quality standards in the same ozone designated area as the new or modified source.

(b) For new or modified sources locating within an ozone maintenance area, the offset ratio is 1.1:1 (offsets:emissions). These offsets may come from sources within either the maintenance area or from a source that is closer to the nearest maintenance area boundary than that source's ozone impact distance.

(c) For new or modified sources locating outside the designated area not including attainment or unclassified areas, but closer than the ozone impact distance of the nearest boundary of the designated area, the offset ratio is 1:1 (offsets:emissions). These offsets may come from within either the designated area or from a source that is closer to the nearest maintenance area boundary than that source's ozone impact distance.

(4) The amount of required offsets and the amount of provided offsets from contributing sources varies based on whether the proposed source or modification and the sources contributing offsets are located outside the ozone designated area other than attainment or unclassified areas. The required offsets and the provided offsets are calculated using either the formula method or the demonstration method, as follows, except that sources located inside an ozone nonattainment area must use the formula method.

(a) The Formula Method.

(A) Required offsets (RO) for new or modified sources are determined as follows:

(i) For sources with complete permit applications submitted before January 1, 2003: RO = SQ; and

(ii) For sources with complete permit applications submitted on or after January 1, 2003: RO = (SQ minus (SD multiplied by 40/30)).

(B) Contributing sources may provide offsets (PO) calculated as follows: PO = CQ minus (CD multiplied by 40/30).

(C) Multiple sources may contribute to the required offsets of a new source. For the formula method to be satisfied, total provided offsets (PO) must equal or exceed required offsets (RO) by the ratio described in section (3).

(D) Definitions of factors used in paragraphs (A) (B) and (C):

(i) RO is the required offset of NOx or VOC in tons per year as a result of the source emissions increase. If RO is calculated to be negative, RO is set to zero.

(ii) SQ (source quantity) is the source's emissions increase of NOx or VOC in tons per year above the netting basis.

(iii) SD is the source distance in kilometers to the nearest boundary of the designated area except attainment or unclassified areas. SD is zero for sources located within the designated area except attainment or unclassified areas.

(iv) PO is the provided offset from a contributing source and must be equal to or greater than zero;

(v) CQ (contributing quantity) is the contributing source's emissions reduction in tons per year calculated as the contemporaneous pre-reduction actual emissions less the post-reduction allowable emissions from the contributing source (as provided in OAR 340-268-0030(1)(b)).

(vi) CD is the contributing source's distance in kilometers from the nearest boundary of the designated area except attainment or unclassified areas. For a contributing source located within the designated area except attainment or unclassified areas, CD equals zero.

(b) The Demonstration Method. An applicant may demonstrate to DEQ using dispersion modeling or other analyses the level and location of offsets that would be sufficient to provide actual reductions in concentrations of VOC or NOx in the designated area during high ozone conditions as the ratio described in section (3). The modeled reductions of ambient VOC or NOx concentrations resulting from the emissions offset must be demonstrated over a greater area and over a greater period of time within the designated area as compared to the modeled ambient VOC or NOx concentrations resulting from the emissions increase from the source subject to this rule. If DEQ determines that the demonstration is acceptable, then DEQ will approve the offsets proposed by the applicant.

(c) Offsets obtained for a previous PSEL increase that did not involve resetting the netting basis can be credited toward offsets currently required for a PSEL increase.

(5) In lieu of obtaining offsets, the owner or operator may obtain an allocation at the rate of 1:1 from a growth allowance, if available, in an applicable maintenance plan.

NOTE: This rule was moved verbatim from OAR 340-225-0020(10) and (11) and OAR 340-225-0090(1) and amended on 04-16-15. Previous rule history for OAR 340-225-0020: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-6-03; Administrative correction 11-10-03; DEQ 1-

2004, f. & cert. ef. 4-14-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 9-2005, f. & cert. ef. 9-9-05; 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. Previous rule history for OAR 340-225-0090: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 22-1989, f. & cert. ef. 9-26-89; 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 340-020-0260; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1970; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0111; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-224-0090 & 340-240-0260; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-6-03; Administrative correction 11-10-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 3-2007, f. & cert. ef. 4-12-07; 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 10-2012, f. & cert. ef. 12-11-12

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-020-0040.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050, 468A.055 & 468A.070
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15

340-224-0530
Net Air Quality Benefit Emission Offsets: Requirements for Demonstrating Net Air Quality Benefit for Non-Ozone Areas

(1) When directed by the Major or State NSR rules, ~~or~~ OAR 340-222-0042, or OAR 340-226-0400, the owner or operator of the source must comply with sections (2) through (6), as applicable. For purposes of this rule, priority sources are sources identified under OAR 340-204-0320 for the designated area.

(2) The ratio of offsets compared to the source's potential emissions increase is 1.2:1 (offsets:emissions). If the offsets include offsets from priority sources, the ratio will be decreased by the offsets obtained from priority sources as a percentage of the source's potential emissions increase. For example, if the owner or operator obtains offsets from priority sources equal to 10% of its potential emissions increase, then the offset ratio is reduced by 0.10, to 1.1:1. In no event, however, will the offset ratio be less than 1.0:1, even if more than 20% of offsets are from priority sources.

(3) The ratio of offsets compared to the source's potential emissions increase is 1.0:1 (offsets:emissions), except as allowed by subsection (a) or required by subsection (b).

(a) For State NSR only, if the offsets include offsets from priority sources, the ratio will be

decreased by the offsets obtained from priority sources as a percentage of the source's potential emissions increase. For example, if the owner or operator obtains offsets from priority sources equal to 20% of its potential emissions increase, then the offset ratio is reduced by 0.2, to 0.8:1. In no event, however, will the offset ratio be less than 0.5:1, even if more than 50% of offsets are from priority sources.

(b) In the Medford-Ashland AQMA, proposed new PM10 major sources or PM10 major modifications locating within the AQMA that are required to provide emission offsets under OAR 340-224-0060(2)(a) must provide reductions in PM10 emissions equal to 1.2 times the emissions increase over the netting basis from the new or modified source.

(4) Except as provided in sections (5) and (6), the owner or operator must conduct an air quality analysis of the impacts from the proposed new emissions and comply with subsections (a) and (b) using the procedures specified in subsections (c) through (e):

(a) Demonstrate that the offsets obtained result in a reduction in concentrations at a majority of modeled receptors within the entire designated area; and

(b) Comply with paragraph (A) or paragraphs (B):

(A) Demonstrate that the impacts from the emission increases above the source's netting basis are less than the Class II SIL at all receptors within the entire designated area; or

(B) Demonstrate that the impacts from the emission increases above the source's netting basis:

(i) Are less than the Class II SIL at an average of receptors within an area designated by DEQ as representing a neighborhood scale, as specified in 40 CFR part 58, Appendix D, a reasonably homogeneous urban area with dimensions of a few kilometers that represent air quality where people commonly live and work in a representative neighborhood, centered on the DEQ approved ambient monitoring sites; and

(ii) ~~Plus t~~The impacts of emission increases or decreases since the date of the current area designation of all other sources within the designated area or having a significant impact on the designated area, are less than 10 percent of the AAQS at all receptors within the designated area;

(c) The air quality analysis must comply with OAR 340-225-0030 and 340-225-0040;

(d) The air quality analysis must use a uniform receptor grid over the entire modeled area for the analyses required in subsections (a) and (b). The spacing of the receptor grids will be determined by DEQ for each analysis;

(e) For the purpose of subsection (a) and paragraph (b)(B):

(A) Subtract the priority source offsets from the new or modified source's emission increase if the priority sources identified are area sources. Area source emissions are spatially distributed emissions that can be generated from activities such as, but not limited to,

residential wood heating, unpaved road dust, and non-road mobile sources;

(B) If the source's emissions are not offset 100 percent by priority sources that are area sources, conduct dispersion modeling of the source's remaining emission increases after subtracting any priority source offsets allowed in subparagraph (A); and in addition, model all other sources with emission increases or decreases in or impacting the designated area since the date the area was designated, including offsets used for the proposed project, but excluding offsets from priority sources that are area sources; and

(C) If the source's emissions are offset 100 percent by priority sources that are area sources, no further analysis is required.

(5) Small scale local energy projects and any infrastructure related to that project located in the same area are not subject to the requirements in section (4) provided that the proposed source or modification would not cause or contribute to a violation of an ambient air quality standard or otherwise pose a material threat to compliance with air quality standards in a nonattainment area.

(6) Offsets obtained in accordance with OAR 340-240-0550 and 340-240-0560 for sources locating within or causing significant air quality impact on the Klamath Falls PM2.5 nonattainment or PM10 maintenance areas are exempt from the requirements of OAR 340-224-0510 and section (4) provided that the proposed major source or major modification would not cause or contribute to a new violation of the national ambient air quality standard. This exemption only applies to the direct PM2.5 or PM10 offsets obtained from residential wood-fired devices in accordance with 340-240-0550 and 340-240-0560. Any remaining emissions from the source that are offset by emission reductions from other sources are subject to the requirements of OAR 340-224-0510 or section (4), as applicable.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-020-0040.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050, 468A.055 & 468A.070
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15

Division 225
AIR QUALITY ANALYSIS REQUIREMENTS

340-225-0030
Procedural Requirements

When required to conduct an air quality analysis under this division:

(1) The owner or operator of a source must submit a modeling protocol to DEQ and have it approved before submitting a permit application.~~; and~~

(2) In addition to the requirements defined in OAR 340-216-0040 for permit applications, the owner or operator of a source must submit all information necessary to perform any analysis or make any determination required under this division. Such information may include, but is not limited to:

(a) Emissions data for all existing and proposed emission points from the source or modification. This data must represent maximum emissions for the averaging times by regulated pollutant consistent with the ambient air quality standards in OAR chapter 340, division 202.

(b) Stack parameter data, height above ground, exit diameter, exit velocity, and exit temperature, for all existing and proposed emission points from the source or modification;

(c) An analysis of the air quality and visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

(d) An analysis of the air quality and visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, that has occurred since the baseline concentration year in the area the source or modification would significantly affect; and.

(3) An analysis of the air quality impacts for comparison to significant impact levels, PSD increments, and ambient air quality standards is not required for PM increases equal to or greater than the PM SER. If applicable, DEQ may require the owner or operator of a source to conduct speciation of PM and perform an analysis for PM10 and PM2.5.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-020-0040

Statutory/Other Authority: ORS 468.020 & 468A.070
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
Reverted to DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-225-0050
Requirements for Analysis in PSD Class II and Class III Areas

Modeling: For determining compliance with the AAQS, PSD increments, and other requirements in PSD Class II and Class III areas, the following methods must be used:

(1) For each regulated pollutant, a single source impact analysis is sufficient to show compliance with the AAQS and PSD increments if:

(a) The modeled impacts from emission increases equal to or greater than a SER above the netting basis due to the proposed source or modification being evaluated are less than the Class II significant impact levels specified in OAR 340-200-0020; and

(b) The owner or operator provides an assessment of factors that may impact the air quality conditions in the area to show that the SIL by itself ensures that the proposed source or modification will not cause or contribute to a new violation of an AAQS and PSD increment. The assessment must take into consideration but is not limited to the following factors:

(A) The background ambient concentration relative to the AAQS;

(B) The emission increases and decreases since the baseline concentration year from other sources that are expected to cause a significant concentration gradient in the vicinity of the source. Determination of significant concentration gradient may take into account factors including but not limited to ROI formula, spatial distribution of existing emission sources, topography, and meteorology.

(2) If the requirement in section (1) is not satisfied, the owner or operator of a proposed source or modification being evaluated must complete a competing source analysis as follows:

(a) For demonstrating compliance with the PSD Class II and III increments (as defined in OAR 340-202-0210), the owner or operator of the proposed source or modification must show that modeled impacts from the proposed increased emissions, above the modeled baseline concentration, plus competing PSD increment consuming source impacts above the modeled baseline concentration are less than the PSD increments for all averaging times; and

(b) For demonstrating compliance with the AAQS, the owner or operator of the source must show that the total modeled impacts plus total competing source impacts plus general background concentrations are less than the AAQS for all averaging times.

(3) The owner or operator of a source or modification must also provide an analysis of:

(a) The impairment to visibility, soils and vegetation that would occur as a result of the proposed source or modification, and general commercial, residential, industrial and other growth associated with the source or modification. As a part of this analysis, deposition modeling analysis is required for sources emitting heavy metals above the SERs as defined in OAR 340-200-0020. Concentration and deposition modeling may also be required for sources emitting other compounds on a case-by-case basis; and

(b) The air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

(4) Any analyses performed under this section must be done in compliance with OAR 340-225-0030 and 340-225-0040, as applicable.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-020-0040.]

Statutory/Other Authority: ORS 468.020 & 468A.070
Statutes/Other Implemented: ORS 468A
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
Reverted to DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11
DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 11-2002, f. & cert. ef. 10-8-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-225-0070
Requirements for Demonstrating Compliance with Air Quality Related Values Protection

(1) Sources that are not federal major sources are exempt from the requirements of this rule.

(2) When directed by OAR chapter 340, division 224, the requirements of this rule apply to each emissions unit that increases the actual emissions of a regulated pollutant above the portion of the netting basis attributable to that emissions unit.

(3) DEQ must provide notice of permit applications involving AQRV analysis to EPA and Federal Land Managers as follows:

(a) If a proposed source or modification could impact air quality related values, including visibility, deposition, and ozone impacts within a Class I area, DEQ will provide written notice to the EPA and to the appropriate Federal Land Manager within 30 days of receiving such permit application. The notice will include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area air quality related values. DEQ will also provide at least 30 days' notice to EPA and the appropriate Federal Land Manager of any scheduled public hearings and preliminary and final actions taken on the application;

(b) If DEQ receives advance notice of a permit application for a source that may affect Class I area visibility, DEQ will notify all affected Federal Land Managers within 30 days of receiving the advance notice;

(c) During its review of source impacts on Class I area air quality related values, pursuant to this rule, DEQ will consider any analysis performed by the Federal Land Manager that is received by DEQ within 30 days of the date that DEQ sent the notice required by subsection (a). If DEQ disagrees with the Federal Land Manager's demonstration, DEQ will include a discussion of the disagreement in the Notice of Public Hearing;

(d) As a part of the notification required in OAR 340-209-0060, DEQ will provide the Federal Land Manager an opportunity to demonstrate that the emissions from the proposed source or modification would have an adverse impact on air quality related values, of any federal mandatory Class I area. This adverse impact determination may be made even if there

is no demonstration that a Class I PSD increment has been exceeded. If DEQ agrees with the demonstration, it will not issue the permit.

(4) Visibility impact analysis requirements:

(a) If division 224 requires a visibility impact analysis, the owner or operator must demonstrate that the potential to emit any regulated pollutant at a SER in conjunction with all other applicable emission increases or decreases, including secondary emissions, permitted since January 1, 1984 and other increases or decreases in emissions, will not cause or contribute to significant impairment of visibility on any Class I area.

(b) The owner or operator must conduct a visibility analysis on the Columbia River Gorge National Scenic Area if it is affected by the source;

(c) The owner or operator must submit all information necessary to perform any analysis or demonstration required by these rules.

(d) Determination of significant impairment: The results of the modeling must be sent to the affected Federal Land Managers and DEQ. The land managers may, within 30 days following receipt of the source's visibility impact analysis, determine whether or not significant impairment of visibility in a Class I area would result. DEQ will consider the comments of the Federal Land Manager in its consideration of whether significant impairment of visibility in a Class I area will result. If DEQ determines that significant impairment of visibility in a Class I area would result, it will not issue a permit for the proposed source or modification.

(5) In consultation with the Federal Land Managers under FLAG, DEQ may require a plume blight analysis or regional haze analysis, or both.

(6) Criteria for visibility impacts:

(a) The owner or operator of a source, where required by division 224, is encouraged to demonstrate that its impacts on visibility satisfy the guidance criteria as referenced in the FLAG.

(b) If visibility impacts are a concern, DEQ will consider comments from the Federal Land Manager when deciding whether significant impairment will result. Emission offsets may also be considered. If DEQ determines that significant impairment of visibility in a Class I area would result, it will not issue a permit for the proposed source or modification.

(7) Deposition modeling is required for receptors in PSD Class I areas and the Columbia River Gorge National Scenic Area where visibility modeling is required. This may include, but is not limited to an analysis of nitrogen deposition and sulfur deposition.

(8) Visibility monitoring:

(a) If division 224 requires visibility monitoring data, the owner or operator must use existing data to establish existing visibility conditions within Class I areas as summarized in the

FLAG Report.

(b) After construction has been completed the owner or operator must conduct such visibility monitoring if DEQ requires visibility monitoring as a permit condition to establish the effect of the regulated pollutant on visibility conditions within the impacted Class I area.

(9) Additional impact analysis: The owner or operator subject to OAR 340-224-0060(2) or 340-224-0070(3) must provide an analysis of the impact to visibility that would occur as a result of the proposed source or modification and general commercial, residential, industrial, and other growth associated with the source.

(10) If the Federal Land Manager recommends and DEQ agrees, DEQ may require the owner or operator to analyze the potential impacts on other Air Quality Related Values and how to protect them. Procedures from the FLAG report must be used in this recommendation. Emission offsets may also be used. If the Federal Land Manager finds that significant impairment of visibility in a Class I area would result from the proposed activities and DEQ agrees, DEQ will not issue a permit for the proposed source or modification.

(11) Any analyses performed under this section must be done in compliance with OAR 340-225-0030 and 340-225-0040, as applicable.

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

[NOTE: View a PDF of FLAG Phase I report by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

Statutory/Other Authority: ORS 468.020 & 468A.070
Statutes/Other Implemented: ORS 468A
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 134-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-224-0110
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2000
DEQ 26-1996, f. & cert. ef. 11-26-96
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0276
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 14-1985, f. & ef. 10-16-85
DEQ 18-1984, f. & ef. 10-16-84

Division 226
GENERAL EMISSION STANDARDS

340-226-0100
Highest and Best Practicable Treatment and Control: Policy and Application

(1) As specified in OAR 340-226-0110 through 340-226-0140 and sections (2) ~~through~~ and (~~3~~5), DEQ will include appropriate conditions in permits to ensure that the highest and best practicable treatment and control of air contaminant emissions ~~must~~ is in every case ~~be~~ provided so as to maintain overall air quality at the highest possible levels, and to maintain contaminant concentrations, visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. ~~In the case of sources installed, constructed, or modified after June 1, 1970, particularly those located in areas with existing high air quality,~~ The permit conditions must ensure that the degree of treatment and control provided must be such that degradation of existing air quality is minimized to the greatest extent possible.

~~(2) A source is in compliance with section (1) if the source is in compliance with all other applicable emission standards and requirements contained in OAR 340 divisions 200 through 268.~~

~~(3) The EQC may adopt additional rules as necessary to ensure that the highest and best practicable treatment and control is provided as specified in section (1). Such rules may include, but are not limited to, requirements:~~

~~(a) Applicable to a source category, regulated pollutant or geographic area of the state;~~

~~(b) Necessary to protect public health and welfare for air contaminants that are not otherwise regulated by the EQC; or~~

~~(c) Necessary to address the cumulative impact of sources on air quality.~~

(2~~4~~) The EQC encourages the owner or operator of a source to further reduce emissions from the source beyond applicable control requirements where feasible.

(3~~5~~) Nothing in OAR 340-226-0100 through 340-226-0140 revokes or modifies any existing permit term or condition unless or until DEQ revokes or modifies the term or condition by a permit revision.

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 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0600
DEQ 19-1993, f. 11-4-93 & cert. ef. 1-1-94
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0001
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 37, f. 2-15-72, ef. 3-1-72

340-226-0130
Highest and Best Practicable Treatment and Control: Typically Achievable Control Technology (TACT)

~~For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established will be typical of the emission level achieved by well-controlled new or modified emissions units similar in type and size that were recently installed.~~ TACT determinations will be based on information known to DEQ while considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control devices. DEQ may consider emission control technologies typically applied to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.

(1) Existing Sources. For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. An existing emissions unit must meet TACT for existing sources if:

(a) The emissions unit is not already subject to emission standards for the regulated pollutant under OAR chapter 340, divisions 224, 230, 234, 236 or 238, OAR 340-232-0010 through 340-232-02340, ~~OAR 340 divisions 234, 236, or 238,~~ OAR 340-240-0110 through 340-240-0180, or OAR 340-240-0320 through 340-240-0430;

(b) The source is required to have a permit;

(c) The emissions unit has emissions of criteria pollutants equal to or greater than 5 tons per year of particulate or 10 tons per year of any gaseous pollutant; and

(d) DEQ determines that air pollution control devices and emission reduction processes in use for the emissions unit do not represent TACT, and that further emission control is necessary to address documented nuisance conditions, address an increase in emissions, ensure that the source is in compliance with other applicable requirements, or protect public health or welfare or the environment.

(2) New and Modified Sources. For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed. A new or modified emissions unit must meet TACT for new or modified sources if:

(a) The new or modified emissions unit is not subject to a control technology requirement based on Major NSR in OAR chapter 340, division 224, a Type A State NSR action under OAR chapter 340, division 224, an applicable Standard of Performance for New Stationary Sources in OAR chapter 340, division 238, OAR 340-240-0110 through 340-240-0180, ~~340-240-0310(1),~~ OAR 340-240-320 through 340-240-0430, or any other standard applicable only to new or modified sources in OAR chapter 340, divisions 230, 234, 236, or 238 for the

regulated pollutant emitted;

(b) The source is required to have a permit;

(c) The emissions unit:

(A) If new, would have emissions of any criteria pollutant equal to or greater than 1 ton per year in any area, or of PM10 equal to or greater than 500 pounds per year in a PM10 nonattainment area; or

(B) If modified, would have an increase in emissions from the permitted level for the emissions unit of any criteria pollutant equal to or greater than 1 ton per year in any area, or of PM10 equal to or greater than 500 pounds per year in a PM10 nonattainment area; and

(d) DEQ determines that the proposed air pollution control devices and emission reduction processes do not represent TACT.

(3) Before making a TACT determination, DEQ will notify the owner or operator of a source that it intends to make such a determination using information known to DEQ. The owner or operator of the source may supply DEQ with additional information by a reasonable date set by DEQ.

(4) The owner or operator of a source subject to TACT must submit, by a reasonable date established by DEQ, compliance plans and specifications for DEQ's approval. The owner or operator of the source must demonstrate compliance in accordance with a method and compliance schedule approved by DEQ.

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 & 468A
Statutes/Other Implemented: ORS 468.020 & 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0630
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1993, f. 11-4-93 & cert. ef. 1-1-94

340-226-0140
Highest and Best Practicable Treatment and Control: Additional Control Requirements for Stationary Sources of Air Contaminants

In addition to other applicable requirements, DEQ may establish control requirements by permit if necessary as specified in sections (1) through (5):

(1) Requirements will be established to prevent violation of an ambient air quality standard caused or projected to be caused substantially by emissions from the source as determined by

modeling, monitoring, or a combination thereof. Any air quality analysis must be conducted in accordance with the procedures in OAR chapter 340, division 225. For existing sources, DEQ ~~will conduct monitoring or~~ may conduct monitoring or modeling or may require a source to conduct monitoring or modeling to ~~confirm~~ determine whether the source's emissions will cause or contribute to a new exceedance ~~a violation~~ of an ambient air quality standard.

(2) Requirements will be established to prevent significant impairment of visibility in Class I areas caused or projected to be caused substantially by a source as determined by modeling, monitoring, or a combination thereof. For existing sources, DEQ will conduct monitoring to confirm visibility impairment.

(3) A requirement applicable to a major source will be established if it has been adopted by EPA but has not otherwise been adopted by the EQC.

(4) An additional control requirement will be established if requested by the owner or operator of a source.

(5) Requirements will be established if necessary to protect public health or welfare for the following air contaminants and sources not otherwise regulated under OAR chapter 340, divisions 200 through 268:

(a) Chemical weapons; and

(b) Combustion and degradation by-products of chemical weapons.

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, 468A.025 & 468A.040
Statutes/Other Implemented: ORS 468A.025 & 468A.040
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 15-2001, f. & cert. ef. 12-26-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0640
DEQ 19-1993, f. 11-4-93 & cert. ef. 1-1-94

340-226-0210
Grain Loading Standards: Particulate Emission Limitations for Sources Other Than Fuel Burning Equipment, Refuse Burning Equipment and Fugitive Emissions

(1) This rule does not apply to the following:

(a) F~~f~~ugitive emissions sources~~;~~.

(b) F~~f~~uel burning equipment~~,~~;

(c) R~~r~~efuse burning equipment~~, ~~; or to

(d) S~~s~~olid fuel burning devices certified under OAR 340-262-0500.

(2) No person may cause, suffer, allow, or permit particulate matter emissions from any air contaminant source in excess of the following limits:

(a) For sources installed, constructed, or modified before June 1, 1970:

(A) 0.10 grains per dry standard cubic foot ~~provided that~~ if all representative compliance source test results collected prior to April 16, 2015, demonstrate that emissions are no greater than 0.080 grains per dry standard cubic foot;

(B) 0.15 grains per dry standard cubic foot i~~I~~f any representative compliance source test results collected prior to April 16, 2015 demonstrate that emissions are greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results~~, then:~~

~~(i) 0.24 grains per dry standard cubic foot prior to Dec. 31, 2019; and~~

~~(ii) 0.15 grains per dry standard cubic foot on or after Jan. 1, 2020~~; and

(C) In addition to the limits in paragraphs (A) ~~or~~ and (B), for equipment or a mode of operation that is used less than 876 hours per calendar year, ~~0.24 grains per dry standard cubic foot from April 16, 2015 through December 31, 2019, and~~ 0.20 grains per dry standard cubic foot ~~on or after Jan. 1, 2020~~.

(b) For sources installed, constructed, or modified on or after June 1, 1970 but prior to April 16, 2015:

(A) 0.10 grains per dry standard cubic foot ~~provided that~~ if all representative compliance source test results prior to April 16, 2015 demonstrate that emissions are no greater than 0.080 grains per dry standard cubic foot; or~~;~~

(B) 0.14 grains per dry standard cubic foot ~~I~~if any representative compliance source test results prior to April 16, 2015 are greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results; and~~, then 0.14 grains per dry standard cubic foot~~.

(c) For sources installed, constructed or modified on or after April 16, 2015, 0.10 grains per dry standard cubic foot.

~~(d) The owner or operator of a source installed, constructed, or modified before June 1, 1970 who is unable to comply with the standard in subparagraph (a)(B)(ii) may request that DEQ grant an extension allowing the source up to one additional year to comply with the standard. The request for an extension must be submitted no later than Oct. 1, 2019.~~

(3) Compliance with the emissions standards in section (2) is determined using:

(a) Oregon Method 5;

(b) DEQ Method 8, as approved by DEQ for sources with exhaust gases at or near ambient conditions;

(c) DEQ Method 7 for direct heat transfer sources [NOTE: DEQ Methods are described in the DEQ Source Sampling Manual published with OAR 340-200-0035]; or

(d) An alternative method approved by DEQ.

(e) For purposes of this rule, representative compliance source test results are data that was obtained:

(A) No more than ten years before April 16, 2015; and

(B) When a source is operating and maintaining air pollution control devices and emission reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions based on the current configuration of the emissions unit and pollution control equipment.

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, 468A.025 & 468A.070
Statutes/Other Implemented: ORS 468A.025 & 468A.070
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0030
DEQ 3-1996, f. & cert. ef. 1-29-96
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 37, f. 2-15-72, ef. 3-1-72

Division 228
REQUIREMENTS FOR FUEL BURNING EQUIPMENT AND FUEL SULFUR CONTENT

340-228-0210
General Emission Standards for Fuel Burning Equipment: Grain Loading Standards

(1) This rule applies to fuel burning equipment, except solid fuel burning devices that have been certified under OAR 340-262-0500.

(2) No person may cause, suffer, allow, or permit particulate matter emissions from any fuel burning equipment in excess of the following limits:

(a) For sources installed, constructed, or modified before June 1, 1970:

(A) 0.10 grains per dry standard cubic foot ~~provided that~~ if all representative compliance source test results collected prior to April 16, 2015 demonstrate emissions no greater than 0.080 grains per dry standard cubic foot;

(B) ~~If any representative compliance source test results collected prior to April 16, 2015 demonstrate emissions greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results, then:~~

~~(i) 0.24 grains per dry standard cubic foot until Dec. 31, 2019; and~~

~~(ii)~~ 0.15 grains per dry standard cubic foot if any representative compliance source test results collected prior to April 16, 2015 demonstrate that emissions greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results~~on and after Jan. 1, 2020~~; and

(C) In addition to the limits in paragraphs (A) ~~or~~ and (B), for equipment or a mode of operation (e.g., backup fuel) that is used less than 876 hours per calendar year, ~~0.24 grains per dry standard cubic foot from April 16, 2015 through December 31, 2019, and~~ 0.20 grains per dry standard cubic foot ~~on and after Jan. 1, 2020~~.

(b) For sources installed, constructed, or modified on or after June 1, 1970 but prior to April 16, 2015:

(A) 0.10 grains per dry standard cubic foot ~~provided that~~ if all representative compliance source test results prior to April 16, 2015 demonstrate that emissions are no greater than 0.080 grains per dry standard cubic foot; or

(B) 0.14 grains per dry standard cubic foot ~~I~~if any representative compliance source test results collected prior to April 16, 2015~~9~~ demonstrate that emissions are greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results; ~~, then 0.14 grains per dry standard cubic foot.~~

(c) For sources installed, constructed or modified on or after April 16, 2015, 0.10 grains per dry standard cubic foot.

(d)~~(A)~~ For sources~~The owner or operator of a source~~ installed, constructed or modified before June 1, 1970, ~~who is unable to comply with the standard in subparagraph (a)(B)(ii) may request that DEQ set a source specific limit of~~ 0.17 grains per dry standard cubic foot if the owner or operator requested this alternative limit by no later than Oct. 1, 2019~~. The owner or operator must submit an application for a permit modification to request the alternative limit by no later than Oct. 1, 2019 that~~ and demonstrate~~d~~s, based on a signed report prepared by a registered professional engineer that specializes in boiler/multiclone operation, that the fuel burning equipment ~~will be~~was unable to comply with the standard in subparagraph (a)(B)~~.(ii) after either:~~

~~(i) Maintenance or upgrades to an existing multiclone system; or~~

~~(ii) Conducting a boiler tune-up if the boiler does not have a particulate matter emission control system.~~

~~(B) If a source qualifies under paragraph (A), DEQ will add the 0.17 grains per dry standard cubic foot source specific limit as a significant permit modification (simple fee) for sources with an Oregon Title V Operating Permit or a Simple Technical Modification for sources with an Air Contaminant Discharge Permit.~~

~~(c) The owner or operator of a source installed, constructed or modified before June 1, 1970 may request that DEQ grant an extension allowing the source up to one additional year to comply with the standard in paragraph (d)(A) provided that the owner or operator demonstrates, based on an engineering report signed by a registered professional engineer that specializes in boiler/multiclone operation, that the source cannot comply with the source specific limit established in OAR 340-228-0210(2)(d)(A) without making significant changes to the equipment or control equipment or adding control equipment. The request for an extension must be submitted no later than Oct. 1, 2019.~~

(3) Compliance with the emissions standards in section (2) is determined using Oregon Method 5, or an alternative method approved by DEQ. [NOTE: Sampling methods are found in the DEQ Source Sampling Manual published with OAR 340-200-0035.]

(a) For fuel burning equipment that burns wood fuel by itself or in combination with any other fuel, the emission results are corrected to 12% CO2.

(b) For fuel burning equipment that burns fuels other than wood, the emission results are corrected to 50% excess air.

(c) For purposes of this rule, representative compliance source test results are data that was obtained:

(A) No more than ten years before April 16, 2015; and

(B) When a source is operating and maintaining air pollution control devices and emission reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions based on the current configuration of the fuel burning equipment and pollution control equipment.

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, 468A.025 & 468A.070
Statutes/Other Implemented: ORS 468A.025 & 468A.070
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 1-2012, f. & cert. ef. 5-17-12
Reverted to DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11

DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0020
DEQ 3-1996, f. & cert. ef. 1-29-96
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 18-1982, f. & ef. 9-1-82
DEQ 6-1981, f. & ef. 2-17-81
DEQ 12-1979, f. & ef. 6-8-79
DEQ 16, f. 6-12-70, ef. 7-11-70

Division 232
EMISSION STANDARDS FOR VOC POINT SOURCES

340-232-0030
Definitions

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

(1) "Aerospace component" means the fabricated part, assembly of parts, or completed unit of any aircraft, helicopter, missile or space vehicle.

(2) "Air dried coating" means coatings which are dried by the use of air at ambient temperature.

(3) "Applicator" means a device used in a coating line to apply coating.

(4) "Bulk gasoline plant" means a gasoline storage and distribution facility which receives gasoline from bulk terminals by railroad car or trailer transport, stores it in tanks, and subsequently dispenses it via account trucks to local farms, businesses, and gasoline dispensing facilities.

(5) "Bulk gasoline terminal" means a gasoline storage facility which receives gasoline from refineries primarily by pipeline, ship, or barge, and delivers gasoline to bulk gasoline plants or to commercial or retail accounts primarily by tank truck.

(6) "Can coating" means any coating applied by spray, roller, or other means to the inside and/or outside surfaces of metal cans, drums, pails, or lids.

(7) "Carbon bed breakthrough" means the initial indication of depleted adsorption capacity characterized by a sudden measurable increase in VOC concentration exiting a carbon adsorption bed or column.

(8) "Certified storage device" means vapor recovery equipment for gasoline storage tanks as certified by the State of California Air Resources Board Executive Orders, copies of which are on file with DEQ, or which has been certified by other air pollution control agencies and approved by DEQ.

(9) "Class II hardboard paneling finish" means finishers which meet the specifications of Voluntary Product Standard PS-59-73 as approved by the American National Standards Institute.

(10) "Clear coat" means a coating which lacks color and opacity or is transparent and uses the undercoat as a reflectant base or undertone color.

(11) "Coating" means a material applied to a surface which forms a continuous film and is used for protective and/or decorative purposes.

(12) "Coating line" means one or more apparatus or operations which include a coating applicator, flash-off area, and oven or drying station wherein a surface coating is applied, dried, and/or cured.

(13) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at standard conditions.

(14) "Crude oil" means a naturally occurring mixture which consists of hydrocarbons and/or sulfur, nitrogen, and/or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.

(15) "Custody transfer" means the transfer of produced petroleum and/or condensate after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

(16) "Cutback asphalt" means a mixture of a base asphalt with a solvent such as gasoline, naphtha, or kerosene. Cutback asphalts are rapid, medium, or slow curing (known as RC, MC, SC), as defined in ASTM D2399.

(17) "Delivery vessel" means any tank truck or trailer used for the transport of gasoline from sources of supply to stationary storage tanks.

(18) "External floating roof" means a cover over an open top storage tank consisting of a double deck or pontoon single deck which rests upon and is supported by the volatile organic liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.

(19) "Extreme performance coatings" means coatings designed for extreme environmental conditions such as exposure to any one of the following: continuous ambient weather conditions, temperature consistently above 95°C, detergents, abrasive and scouring agents, solvents, corrosive atmosphere, or similar environmental conditions.

(20) "Extreme performance interior topcoat" means a topcoat used in interior spaces of aircraft areas requiring a fluid, stain or nicotine barrier.

(21) "Fabric coating" means any coating applied on textile fabric. Fabric coating includes the application of coatings by impregnation.

(22) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(23) "Freeboard ratio" means the freeboard height divided by the width (not length) of the degreaser's air/solvent area.

(24) "Forced air dried coating" means a coating which is dried by the use of warm air at temperatures up to 90°C (194°F).

(25) "Gas freed" means a marine vessel's cargo tank has been certified by a Marine Chemist as "Safe for Workers" according to the requirements outlined in the National Fire Protection Association Rule 306.

(26) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 27.6 kPa (4.0 psi) or greater which is used to fuel internal combustion engines.

(27) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle, boat, or airplane gasoline tanks from stationary storage tanks.

(28) "Gaseous service" means equipment which processes, transfers or contains a VOC or mixture of VOCs in the gaseous phase.

(29) "Hardwood plywood" is plywood whose surface layer is a veneer of hardwood.

(30) "High performance architectural coating" means coatings applied to aluminum panels and moldings being coated away from the place of installation.

(31) "Internal floating roof" means a cover or roof in a fixed roof tank which rests upon or is floating upon the petroleum liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.

(32) "Large appliance" means any residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dish washers, trash compactors, air conditioners, and other similar products.

(33) "Leaking component" means any petroleum refinery source which has a VOC concentration exceeding 10,000 parts per million (ppm) when tested in the manner described in EPAa Method 21. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open-ended pipes. Excluded from these sources are valves which are not externally regulated.

(34) "Lightering" means the transfer of a liquid product identified in OAR 340-232-0110(1)(a) or (1)(b), as applicable, into a cargo tank from one marine tank vessel to another.

(35) "Liquid-mounted" means a primary seal mounted so the bottom of the seal covers the liquid surface between the tank shell and the floating roof.

(36) "Liquid service" means equipment which processes, transfers or contains a VOC or mixture of VOCs in the liquid phase.

(37) "Loading event" means the loading or lightering of a liquid product identified in OAR 340-232-0110(1)(a) or (1)(b), as applicable, into a marine tank vessel's cargo tank, or the loading of any product into a marine tank vessel's cargo tank where the prior cargo was a liquid product identified in OAR 340-232-0110(1)(a) or (1)(b), as applicable. The event begins with the connection of a marine tank vessel to a storage or cargo tank by means of piping or hoses for the transfer of a fuel product from the storage or cargo tank into the receiving marine tank vessel. The event ends with disconnection of the pipes and/or hoses upon completion of the loading process.

(38) "Marine tank vessel" means any marine vessel constructed or converted to carry liquid bulk cargo that transports a liquid product identified in OAR 340-232-0110(1)(a) or (1)(b), as applicable.

(39) "Marine terminal" means any facility or structure used to load or unload any fuel product cargo into or from marine tank vessels.

(40) "Marine vessel" means any tugboat, tanker, freighter, passenger ship, barge or other boat, ship or watercraft.

(41) "Maskant for chemical processing" means a coating applied directly to an aerospace component to protect surface areas when chemical milling, anodizing, aging, bonding, plating, etching and/or performing other chemical operations on the surface of the component.

(42) "Miscellaneous metal parts and products" means any metal part or metal product, even if attached to or combined with a nonmetal part or product, except cans, coils, metal furniture, large appliances, magnet wires, automobiles, ships, and airplane bodies.

(43) "Natural finish hardwood plywood panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

(44) "Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.

(45) "Oven dried" means a coating or ink which is dried, baked, cured, or polymerized at temperatures over 90°C (194°F).

(46) "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(47) "Paper coating" means any coating applied on paper, plastic film, or metallic foil to make certain products, including but not limited to adhesive tapes and labels, book covers, post cards, office copier paper, drafting paper, or pressure sensitive tapes. Paper coating includes the application of coatings by impregnation and/or saturation.

(48) "Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of petroleum, crude oil, or through redistillation, cracking, or reforming of unfinished petroleum derivatives. "Petroleum refinery" does not mean a re-refinery of used motor oils or other waste chemicals. "Petroleum refinery" does not include asphalt blowing or separation of products shipped together.

(49) "Pretreatment wash primer" means a coating which contains a minimum of 0.5% acid by weight for surface etching and is applied directly to bare metal surfaces to provide corrosion resistance and adhesion.

(50) "Prime coat" means the first of two or more films of coating applied in an operation.

(51) "Printed interior panels" means panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.

(52) "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage.

(53) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(54) "Reasonably available control technology" or "RACT" means the lowest emission limitation that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

(55) "Roll printing" means the application of words, designs and pictures to a substrate by means of hard rubber or steel rolls.

(56) "Sealant" means a coating applied for the purpose of filing voids and providing a barrier against penetration of water, fuel or other fluids or vapors.

(57) "Specialty printing" means all gravure and flexographic operations which print a design or image, excluding publication gravure and packaging printing. Specialty Printing includes printing on paper plates and cups, patterned gift wrap, wallpaper, and floor coverings.

(58) "Submerged fill" means any fill pipe or hose, the discharge opening of which is entirely submerged when the liquid is 6 inches above the bottom of the tank; or when applied to a tank which is loaded from the side, means any fill pipe, the discharge of which is entirely submerged when the liquid level is 18 inches, or is twice the diameter of the fill pipe, whichever is greater, above the bottom of the tank.

(59) "Thirty-day rolling average" means any value arithmetically averaged over any consecutive thirty days.

(60) "Tileboard" means paneling that has a colored waterproof surface coating.

(61) "Topcoat" means a coating applied over a primer or intermediate coating for purposes such as appearance, identification or protection.

(62) "True vapor pressure" means the equilibrium pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks," February, 1980.

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

(64) "Vapor-mounted" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the primary seal, the tank shell, the liquid surface, and the floating roof.

(65) "Vapor tight" means, as used in OAR 340-232-0110, a condition that exists when the concentration of a VOC, measured one centimeter from any source, does not exceed 10,000 ppm (expressed as methane) above background.

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

[NOTE: Publications referenced and not linked to below are available from the agency.]

[NOTE: View a PDF of referenced EPA Methods by clicking on "Tables" link follo~~i~~wing OAR 340-232-8010.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 15-2001, f. & cert. ef. 12-26-01
DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0102
DEQ 6-1999, f. & cert. ef. 5-21-99
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 9-1997, f. & cert. ef. 5-9-97
DEQ 6-1996, f. & cert. ef. 3-29-96
DEQ 13-1995, f. & cert. ef. 5-25-95
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 8-1991, f. & cert. ef. 5-16-91
DEQ 3-1986, f. & ef. 2-12-86
DEQ 23-1980, f. & ef. 9-26-80
DEQ 17-1979, f. & ef. 6-22-79
DEQ 21-1978, f. & ef. 12-28-78

340-232-0040
General Non-Categorical Requirements

(1) All existing sources operating prior to November 15, 1990, located inside the areas cited in OAR 340-232-0020(1)(a) or (1)(c), containing emissions units or devices for which no categorical RACT requirements exist and which can emit ~~have potential emissions before add-on controls of~~ over 100 tons per year of VOC from aggregated, non-regulated emissions units, based on the design capacity or maximum production or throughput capacity of the source operating 8,760 hours per year without the use of control devices or limits on hours of operation, must have RACT requirements developed on a case-by-case basis by DEQ. Sources that have complied with NSR requirements per OAR chapter 340, division 224 and are subject to Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) requirements are presumed to have met RACT requirements.

(2) A source may request RACT not be applied or removed by demonstrating to DEQ that the aggregated, non-regulated emissions units are unable to emit more than 100 tons per year of VOC, based on the design capacity or maximum production or throughput capacity of the source operating 8,760 hours per year without the use of control devices~~its potential emissions before add-on controls are less than 100 tons per year. Once a source becomes subject to RACT requirements under this section, it will continue to be subject to RACT, unless VOC emissions fall less than 100 tons per year and the source requests that RACT be removed, by demonstrating to DEQ that their potential VOC emissions before add-on controls are below 100 tons per year~~.

(3~~2~~) Within 3 months of written notification by DEQ of the applicability of this rule, or, for good cause shown, up to an additional three months as approved by DEQ, the source must submit to DEQ a complete analysis of RACT for each category of emissions unit at the source, taking into account technical and economic feasibility of available control technology, and the emission reductions each technology would provide. This analysis does not need to include any emissions units subject to a specific categorical RACT requirement under this division. These RACT requirements approved by DEQ will be incorporated in the source's Air Contaminant Discharge Permit, and will be effective upon approval by EPA as a source specific SIP revision. The source must comply with the applicable RACT requirements beginning one year from the date of notification by DEQ of EPA approval.

(4~~3~~) Failure by a source to submit a RACT analysis required by section (2) does not excuse the source from the obligation to comply with a RACT determination established by DEQ.

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 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0104
DEQ 20-1998, f. & cert. ef. 10-12-98

Reverted to DEQ 13-1995, f. & cert. ef. 5-25-95
DEQ 7-1997(Temp), f. & cert. ef. 4-28-97
DEQ 13-1995, f. & cert. ef. 5-25-95
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 8-1991, f. & cert. ef. 5-16-91
DEQ 3-1986, f. & ef. 2-12-86
DEQ 23-1980, f. & ef. 9-26-80
DEQ 17-1979, f. & ef. 6-22-79
DEQ 21-1978, f. & ef. 12-28-78

340-232-0090
Bulk Gasoline Terminals Including Truck and Trailer Loading

(1) No terminal owner or operator, may allow VOCs to be emitted into the atmosphere in excess of 80 milligrams of VOC per liter of gasoline loaded from the operation of loading truck tanks, and truck trailers at bulk gasoline terminals with a daily throughputs of greater than 76,000 liters (20,000 gallons) per day of gasoline, determined by a thirty-day rolling average:

(a) The owner or operator of a gasoline loading terminal must only allow the transfer of gasoline between the facility and a truck tank or a truck trailer when a current leak test certification for the delivery vessel is on file with the terminal or a valid permit as required by OAR 340-232-0100(1)(c) is displayed on the delivery vessel;

(b) The owner or operator of a truck tank or a truck trailer must not make any connection to the terminal's gasoline loading rack unless the gasoline delivery vessel has been tested in accordance with OAR 340-232-0100(1);

(c) The truck driver or other operator who fills a delivery truck tank and/or trailer tank must not take on a load of gasoline unless the vapor return hose is properly connected;

(d) All equipment associated with the vapor balance system must be maintained to be vapor tight and in good working order.

(2) Compliance with section (1) must be determined by testing in accordance with Method 33 on file with DEQ. [NOTE: This Method is in the DEQ Source Sampling M<u>a</u>n~~a~~ual published at OAR 340-200-0035.]The method for determining compliance with section (1) are delineated in 40 CFR part 60, subpart XX, §60.503.

(3) Bulk Gasoline terminals must comply with the following within the limits of section (1):

(a) All displaced vapors and gases during tank truck gasoline loading operations must be vented only to the vapor control system;

(b) The loading device must not leak when in use. The loading device must be designed and operated to allow no more than 10 cubic centimeters drainage per disconnect on the basis of 5 consecutive disconnects;

(c) All loading liquid lines must be equipped with fittings which make vapor-tight connections and which close automatically and immediately when disconnected;

(d) All vapor lines must be equipped with fittings which make vapor-tight connections and which close automatically and immediately when disconnected or which contain vapor tight unidirectional valves;

(e) Gasoline must be handled in a manner to prevent its being discarded in sewers or stored in open containers or handled in any manner that would result in evaporation. If more than 5 gallons are spilled, the operator must report the spillage in accordance with OAR 340-214-0300 through 340-214-0350;

(f) The vapor balance system must be operated in a manner to prevent the pressure therein from exceeding the tank truck or trailer pressure relief settings.

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, 468A.025, 468A.050 & 468A.070
Statutes/Other Implemented: ORS 468A.025, 468A.050 & 468A.070
History:
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DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0130
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 26-1995, f. & cert. ef. 12-6-95
DEQ 25-1994, f. & cert. ef. 11-22-94
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 8-1991, f. & cert. ef. 5-16-91, Sec. (2) & (3) Renumbered from 340-022-0133, 340-022-0136
DEQ 3-1986, f. & cert. ef. 2-12-86
DEQ 12-1981(Temp), f. & cert. ef. 4-29-81
DEQ 23-1980, f. & cert. ef. 9-26-80
DEQ 17-1979, f. & cert. ef. 6-22-79
DEQ 21-1978, f. & cert. ef. 12-28-78

340-232-0160
Surface Coating in Manufacturing

(1) No person may operate a coating line which emits into the atmosphere VOCs in excess of the limits in section (5), expressed as pounds VOC per gallon of coating applied, excluding water and exempt solvents, unless an alternative emission limit is approved by DEQ pursuant to section (3) or emissions are controlled to an equivalent level pursuant to section (7). If surface coating is performed but is not specifically listed in section (5), then that surface coating is subject to OAR 340-232-0040, if applicable.

(2) Exemptions:

(a) This rule does not apply to airplanes painted out of doors in open air; automobile and truck refinishing; customized top coating of automobiles and trucks, if production is less than 35 vehicles per day; marine vessels and vessel parts painted out in the open air; flat wood coating; wood furniture and wood cabinets; wooden doors, mouldings, and window frames; machine staining of exterior wood siding; high temperature coatings (for service above 500° F.); lumber marking coatings; potable water tank inside coatings; high performance inorganic zinc coatings, air dried, applied to fabricated steel; and markings by stencil for railroad cars;

(b) This rule does not apply to:

(A) Sources whose VOC potential to emit before add on controls from activities identified in section (5) ~~are~~ is less than 10 tons per year;

(B) Sources with VOC actual emissions before add on controls from activities identified in section (5) are less than ~~(or~~ 3 pounds ~~VOC/~~per hour;

(C) Sources with VOC actual emissions before add on controls from activities identified in section (5) are less than 15 pounds ~~actual VOC/~~per day~~)~~; or

(D~~B~~) Sources used exclusively for chemical or physical analysis or determination of product quality and commercial acceptance, such as research facilities, pilot plant operations, and laboratories, unless:

(i) The operation of the source is an integral part of the production process; or

(ii) The emissions from the source exceed 363 kilograms (800 pounds) in any calendar month.

(3) Exceptions:

(a) On a case-by-case basis, DEQ may approve exceptions to the emission limits specified in section (5), upon documentation by the source that an alternative emission limit would satisfy the federal criteria for RACT;

(b) Included in this documentation must be a complete analysis of technical and economic factors which:

(A) Prevent the source from using both compliance coatings and air pollution control devices; and

(B) Justify the alternative emission limit sought by the source.

(c) The alternative emission limit approved by DEQ will be incorporated into the source's Air Contaminant Discharge Permit, or Title V operating permit, and will be effective upon approval by EPA as a source specific SIP revision.

(4) Applicability: This rule applies to each coating line, which includes the application area, flashoff area, air and forced air dryer, and oven used in the surface coating of the parts and

products in subsections (5)(a) through (j).

(5) Process and Limitation: These emission limitations must be based on a daily average except subsection (5)(e) must be based on a monthly average. If more than one emission limitation in this rule applies to a specific coating, then the most stringent emission limitation must be applied:

(a) Can Coating:

(A) Sheet basecoat, exterior and interior, and over-varnish; two-piece can exterior, basecoat and over-varnish, 2.8 pounds/gallon;

(B) Two- and three-piece can interior and exterior body spray, two-piece can exterior end, spray or roll coat, 4.2 pounds/gallon;

(C) Three-piece can side-seam spray 5.5 pounds/gallon;

(D) End sealing compound 3.7 pounds/gallon;

(E) End Sealing Compound for fatty foods 3.7 pounds/gallon.

(b) Fabric Coating 2.9 pounds/gallon;

(c) Vinyl Coating 3.8 pounds/gallon;

(d) Paper Coating 2.9 pounds/gallon;

(e) Existing Coating of Paper and Film in the Medford-Ashland AQMA 55 pounds VOC per 1000 square yards of material per pass;

(f) Auto and Light Duty Truck Coating:

(A) Prime 1.9 pounds/gallon;

(B) Topcoat 2.8 pounds/gallon;

(C) Repair 4.8 pounds/gallon;

(g) Metal Furniture Coating 3.0 pounds/gallon;

(h) Magnet Wire Coating 1.7 pounds/gallon;

(i) Large Appliance Coating 2.8 pounds/gallon;

(j) Miscellaneous Metal Parts and Products:

(A) Clear Coatings 4.3 pounds/gallon;

(B) Forced Air Dried or Air Dried 3.5 pounds/gallon;

(C) Extreme Performance Coatings 3.5 pounds/gallon;

(D) Other Coatings, i.e., powder, oven dried, 3.0 pounds/gallon;

(E) High Performance Architectural Coatings 3.5 pounds/gallon.

(6) Compliance Determination: Compliance with this rule must be determined by testing in accordance with 40 CFR part 60 EPA Method 18, 24, 25, a material balance method, or an equivalent plant specific method approved by and on file with DEQ. The limit in section (1) of VOC in the coating is based upon an assumed solvent density, and other assumptions unique to a coating line; where conditions differ, such as a different solvent density, a plant specific limit developed pursuant to the applicable Control Technology Guideline document may be submitted to DEQ for approval.

(7) Reduction Method: Compliance with the emission limits of sections (3) and (5) must be achieved by:

(a) The application of low solvent content coating technology;

(b) An incineration system which oxidizes at least 90.0 percent of the non-methane VOCs entering the incinerator, VOC measured as total combustible carbon, to carbon dioxide and water; or

(c) An equivalent means of VOC removal. The equivalent means must be approved by DEQ and will be incorporated in the source's Air Contaminant Discharge Permit or Title V ~~P~~permit, and will be effective upon approval by EPA as a source-specific SIP revision. Other alternative emission controls approved by DEQ and allowed by EPA may be used to provide an equivalent means of VOC removal.

(8) Recordkeeping Requirements:

(a) A current list of coatings must be maintained which provides all the coating data necessary to evaluate compliance, including the following information, where applicable:

(A) Coating catalyst and reducer used;

(B) Mix ratio of components used;

(C) VOC content of coating as applied; and

(D) Oven temperature.

(b) Where applicable, a monthly record must be maintained indicating the type and amount of solvent used for cleanup and surface preparation;

(c) Such records must be retained and available for inspection by DEQ for a period of five years.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that

EQC adopted under OAR 340-200-0040.]

[NOTE: View a PDF of referenced EPA Methods by clicking on "Tables" link below OAR 340-232-8010.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.070
Statutes/Other Implemented: ORS 468A.025 & 468A.070
History:
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DEQ 141-2018, minor correction filed 04/11/2018, effective 04/11/2018
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DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0170
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 4-1993, f. & cert. ef. 3-10-93, Sec. (5) Renumbered from 340-022-0173
DEQ 8-1991, f. & cert. ef. 5-16-91
DEQ 3-1986, f. & cert. ef. 2-12-86
DEQ 23-1980, f. & cert. ef. 9-26-80
DEQ 17-1979, f. & cert. ef. 6-22-79
DEQ 21-1978, f. & cert. ef. 12-28-78

340-232-0170
Aerospace Component Coating Operations

(1) No owner or operator of an aerospace component coating facility may emit into the atmosphere VOCs in excess of the following limits, expressed as pounds VOC per gallon of coating applied, excluding water and exempt solvents, unless an alternative emission limit is approved by DEQ pursuant to section (4) or emissions to the atmosphere are controlled to an equivalent level pursuant to section (10):

(a) Primer — 2.9 pounds/gallon;

(b) Interior Topcoat — 2.8 pounds/gallon;

(c) Electric or Radiation Effect Coating — 6.7 pounds/gallon;

(d) Extreme Performance Interior Topcoat — 3.5 pounds/gallon;

(e) Fire Insulation Coating — 5.0 pounds/gallon;

(f) Fuel Tank Coating — 6.0 pounds/gallon;

(g) High Temperature Coating for conditions between 350° F. –500° F. — 6.0 pounds/gallon;

(h) Sealant — 5.0 pounds/gallon;

(i) Self-Priming Topcoat — 3.5 pounds/gallon;

(j) Topcoat — 3.5 pounds/gallon;

(k) Pretreatment Wash Primer — 3.5 pounds/gallon;

(l) Sealant Bonding Primer — 6.0 pounds/gallon;

(m) Temporary Protective Coating — 2.1 pounds/gallon;

(2) Exemptions: This rule does not apply to the following:

(a) The exterior of fully assembled airplanes painted out of doors, high temperature coatings (for conditions over 500° F.), adhesive bonding primer, flight test coatings, and space vehicle coatings;

(b) Sources whose potential to emit from activities identified in section (1) before add on controls of VOCs are less than ten tons per year (or 3 pounds VOC/hour or 15 pounds VOC/day actual);

(c) The use of separate coating formulations in volumes of less than 20 gallons per calendar year. No source may use more than a combined total of 250 gallons per calendar year of exempt coatings. Records of coating usage must be maintained as per section (8); or

(d) Sources used exclusively for chemical or physical analysis or determination of product quality and coating performance (such as research facilities and laboratories) unless:

(A) The operation of the source is an integral part of the production process; or

(B) The emissions from the source exceed 363 kilograms (800 pounds) in any calendar month.

(3) Exceptions:

(a) On a case-by-case basis, DEQ may approve exceptions to the emission limits specified in section (1), upon documentation by the source that an alternative emission limit would satisfy the federal criteria for RACT;

(b) Included in this documentation must be a complete analysis of technical and economic factors which:

(A) Prevent the source from using both compliance coatings and air pollution control devices; and

(B) Justify the alternative emission limit sought by the source.

(c) The alternative emission limit approved by DEQ will be incorporated into the source's Air Contaminant Discharge Permit and will be effective upon approval by EPA as a source-specific SIP revision.

(4) Applicability: This rule applies to each coating line, which includes the application area,

flashoff area, air and forced air dryer, and oven used in the surface coating of aerospace components in subsections (1)(a) through (m) . If more than one emission limitation in this rule applies to a specific coating, then the most stringent emission limitation must be applied.

(5) Solvent Evaporation Minimization:

(a) Closed containers must be used for the storage or disposal of cloth or paper used for solvent surface preparation and cleanup;

(b) Fresh and spent solvent must be stored in closed containers;

(c) Organic compounds may not be used for the cleanup of spray equipment unless equipment is used to collect the cleaning compounds and to minimize their evaporation;

(d) Containers of coating, catalyst, thinner, or solvent may not be left open to the atmosphere when not in use.

(6) Stripper Limitations: No stripper may be used which contains more than 400 grams/liter (3.3 lbs./gal.) of VOC or which has a true vapor pressure of 1.3 kPa (0.19 psia) at actual usage temperature.

(7) Maskant for Chemical Processing Limitation: No maskant may be applied for chemical processing unless the VOC emissions from coating operations are reduced by 85 percent, or the coating contains less than 600 grams of VOC per liter (5.0 pounds/gallon) of coating excluding water, as applied.

(8) Compliance determination: Compliance with this rule must be determined by testing in accordance with 40 CFR part 60, Appendix A, Method 24 for determining the VOC content of the coating materials. Emissions from the coating processes and/or VOC emissions control efficiencies must be determined by testing in accordance with 40 CFR part 60, Appendix A, Method 18, 25, California Method ST-7, a material balance method, or an equivalent plant specific method approved by EPA and DEQ and on file with DEQ. The limit in section (1) of VOC in the coating is based upon an assumed solvent density, and other assumptions unique to a coating line; where conditions differ, such as a different solvent density, a plant specific limit may be submitted to DEQ and EPA for approval.

(9) Reduction Method: The emission limits of section (1) must be achieved by:

(a) The application of a low solvent content coating technology;

(b) A vapor collection and disposal system; or

(c) An equivalent means of VOC removal. The equivalent means must be approved by DEQ and will be incorporated in the source's Air Contaminant Discharge Permit or Title V Operating Permit, and will be effective upon approval by EPA as a source-specific SIP revision. Other alternative emission controls approved by DEQ and allowed by EPA may be used to provide an equivalent means of VOC removal.

(10) Recordkeeping Requirements:

(a) A current list of coatings must be maintained which provides all of the coating data necessary to evaluate compliance, including the following information, where applicable:

(A) A daily record indicating the mix ratio of components used; and

(B) The VOC content of the coating as applied.

(b) A monthly record must be maintained indicating the type and amount of solvent used for cleanup and surface preparation;

(c) A monthly record must be maintained indicating the amount of stripper used;

(d) Such records must be retained and available for inspection by DEQ for a period of five years.

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

[NOTE: View a PDF of California Test Methods by clicking on “Tables” link below.]

[NOTE: View a PDF of referenced EPA Methods by clicking on “Tables” link below OAR 340-232-8010.]

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

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DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 8-1991, f. & cert. ef. 5-16-91

Division 234
EMISSION STANDARDS FOR WOOD PRODUCTS INDUSTRIES

340-234-0010
Definitions

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

(1) "Baseline emissions rate" means a source's actual emissions rate during the baseline

period, as defined in OAR 340-200-0020, expressed as pounds of emissions per thousand square feet of finished product, on a 1/8" basis.

(2) "BLS" means black liquor solids, dry weight.

(3) "Continuous monitoring" means instrumental sampling of a gas stream on a continuous basis, excluding periods of calibration.

(4) "Daily arithmetic average" means the average concentration over the twenty-four hour period in a calendar day, as determined by continuous monitoring equipment or reference method testing. Determinations based on EPA reference methods using the DEQ Source Sampling Manual consist of three separate consecutive runs having a minimum sampling time of sixty minutes each and a maximum sampling time of eight hours each. [NOTE: DEQ's Source Sampling Manual is published with OAR 340-200-0035; EPA Reference Methods are found at Appendix A to 40 C.F.R. Part 60.] The three values for concentration (ppm or grains/dscf) are averaged and expressed as the daily arithmetic average which is used to determine compliance with process weight limitations, grain loading or volumetric concentration limitations and to determine daily emission rate.

(5) "Dry standard cubic meter" means the amount of gas that would occupy a volume of one cubic meter, if the gas were free of uncombined water, at a temperature of 20° C. (68° F.) and a pressure of 760 mm of mercury (29.92 inches of mercury). The corresponding English unit is dry standard cubic foot.

(6) "Kraft mill" or "mill" means any industrial operation which uses for a cooking liquor an alkaline sulfide solution containing sodium hydroxide and sodium sulfide in its pulping process.

(7) "Lime kiln" means any production device in which calcium carbonate is thermally converted to calcium oxide.

(8) "Non-condensables" mean gases and vapors, contaminated with TRS compounds, from the digestion and multiple-effect evaporation processes of a mill.

(9) "Operations" includes plant, mill, or facility.

(10) "Other sources" as used in OAR 340-234-0200 through 340-234-0270 means sources of TRS emissions in a kraft mill other than recovery furnaces, lime kilns, smelt dissolving tanks, sewers, drains, categorically insignificant activities and wastewater treatment facilities including but not limited to:

(a) Vents from knotters, brown stock washing systems, evaporators, blow tanks, blow heat accumulators, black liquor storage tanks, black liquor oxidation system, pre-steaming vessels, tall oil recovery operations; and

(b) Any vent which is shown to contribute to an identified nuisance condition.

(11) "Production" as used in OAR 340-234-0200 through 340-234-0270 means the daily

amount of air-dried unbleached pulp, or equivalent, produced during the 24-hour period each calendar day, or DEQ approved equivalent period, and expressed in air-dried metric tons (admt) per day. The corresponding English unit is air-dried tons (adt) per day;

(12) "Recovery furnace" means the combustion device in which dissolved wood solids are incinerated and pulping chemicals recovered from the molten smelt. For OAR 340-234-0200 through 340-234-0270, this term includes a direct contact evaporator, if present.

(13) "Recovery system" means the process by which all or part of the cooking chemicals may be recovered, and cooking liquor regenerated from spent cooking liquor, including evaporation, combustion, dissolving, fortification, and storage facilities associated with the recovery cycle.

(14) "Smelt dissolving tank vent" means the vent serving the vessel used to dissolve the molten smelt produced by the recovery furnace.

(15) "Special problem area" means the formally designated Portland, Eugene-Springfield, and Medford AQMAs and other specifically defined areas that the EQC may formally designate in the future. The purpose of such designation will be to assign more stringent emission limits as may be necessary to attain and maintain ambient air standards or to protect the public health or welfare.

(16) "Tempering oven" means any facility used to bake hardboard following an oil treatment process.

(17) "Wigwam waste burner" means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for incineration of wastes.

[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 references to Total Reduced Sulfur.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0005, 340-025-0150, 340-025-0220, 340-025-0305, 340-025-0350, 340-025-0410
DEQ 15-1980, f. & ef. 5-23-80
DEQ 32, f. 11-23-71, ef. 12-15-71
DEQ 4-1995, f. & cert. ef. 2-17-95
DEQ 22-1991, f. & cert. ef. 11-13-91
DEQ 7-1979, f. & ef. 4-20-79
DEQ 132, f. & ef. 4-11-77
DEQ 26, f. 3-31-71, ef. 4-25-71
DEQ 22-1995, f. & cert. ef. 10-6-95

DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 2-1990, f. & cert. ef. 1-24-90
DEQ 137, f. & ef. 6-10-77
DEQ 50, f. 2-9-73, ef. 3-1-73
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 37, f. 2-15-72, ef. 3-1-72

340-234-0210
Kraft Pulp Mills: Emission Limitations

(1) Emission of Total Reduced Sulfur (TRS):

(a) Recovery Furnaces:

(A) The emissions of TRS from each recovery furnace placed in operation before January 1, 1969, may not exceed:

(i) 10 ppm ~~and 0.15 Kg/metric ton (0.30 pound/ton) of production~~ as daily arithmetic average~~s~~; and

(ii) 0.15 Kg/metric ton (0.30 pound/ton) of production as a daily arithmetic average;

(B) TRS emissions from each recovery furnace placed in operation after January 1, 1969, and before September 25, 1976, or any recovery furnace modified significantly after January 1, 1969, and before September 25, 1976, to expand production must be controlled such that the emissions of TRS may not exceed:

(i) 5 ppm as a daily arithmetic average; and

(ii) 0.075 Kg/metric ton (0.150 pound/ton) of production as a daily arithmetic average~~s~~.

(b) Lime Kilns. This subsection applies to those sources where construction was initiated prior to September 25, 1976. Lime kilns must be operated and controlled such that emissions of TRS may not exceed:

(A) 20 ppm as a daily arithmetic average; and

(B) 0.05 Kg/metric ton (0.10 pound/ton) of production as a daily arithmetic average. ~~This subsection applies to those sources where construction was initiated prior to September 25, 1976.~~

(c) Smelt Dissolving Tanks. TRS emissions from each smelt dissolving tank may not exceed 0.0165 gram/Kg BLS (0.033 pound/ton BLS) as a daily arithmetic average.

(d) Non-Condensables. Non-condensables from digesters, multiple-effect evaporators and contaminated condensate stripping must be continuously treated to destroy TRS gases by thermal incineration in a lime kiln or incineration device capable of subjecting the non-condensables to a temperature of not less than 650° C. (1,200° F.) for not less than 0.3

second. An alternate device meeting the above requirements must be available in the event adequate incineration in the primary device cannot be accomplished. Venting of TRS gases during changeover must be minimized but in no case may the time exceed one-hour.

(e) Other Sources:

(A) The total emission of TRS from other sources may not exceed 0.078 Kg/metric ton (0.156 pound/ton) of production as a daily arithmetic average;

(B) Miscellaneous Sources and Practices. If DEQ determines that sewers, drains, and anaerobic lagoons significantly contribute to an odor problem, a program for control will be required.

(2) Particulate Matter:

(a) Recovery Furnaces. The emissions of particulate matter from each recovery furnace stack may not exceed:

(A) 2.0 kilograms per metric ton (4.0 pounds per ton) of production as a daily arithmetic average;

(B) 0.30 gram per dry standard cubic meter (0.13 grain per dry standard cubic foot) as a daily arithmetic average; and

(C) Thirty-five percent opacity for a period or periods aggregating more than 30 minutes in any 180 consecutive minutes or more than 60 minutes in any 24 consecutive hours (excluding periods when the facility is not operating).

(b) Lime Kilns. The emissions of particulate matter from each lime kiln stack may not exceed:

(A) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average;

(B) 0.46 gram per dry standard cubic meter (0.20 grain per dry standard cubic foot) as a daily arithmetic average; and

(C) The visible emission limitations in section (4);~~.~~

(c) Smelt Dissolving Tanks. The emission of particulate matter from each smelt dissolving tank vent may not exceed:

(A) A daily arithmetic average of 0.25 kilogram per metric ton (0.50 pound per ton) of production; and

(B) The visible emission limitations in section (4).

(d) Replacement of or modification or a rebuild of an existing particulate pollution control device for which a capital expenditure of 50 percent or more of the replacement cost of the

existing device is required, other than ongoing routine maintenance, after July 1, 1988 will result in more restrictive standards as follows:

(A) Recovery Furnaces:

(i) The emission of particulate matter from each affected recovery furnace stack may not exceed 1.00 kilogram per metric ton (2.00 pounds per ton) of production as a daily arithmetic average; and

(ii) 0.10 gram per dry standard cubic meter (0.044 grain per dry standard cubic foot) as a daily arithmetic average.

(B) Lime Kilns:

(i) The emission of particulate matter from each affected lime kiln stack may not exceed 0.25 kilogram per metric ton (0.50 pound per ton) of production as a daily arithmetic average; and

(ii) 0.15 gram per dry standard cubic meter (0.067 grain per dry standard cubic foot) as a daily arithmetic average when burning gaseous fossil fuel; or

(iii) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average; and

(iv) 0.30 gram per dry standard cubic meter 0.13 grain per dry standard cubic foot) as a daily arithmetic average when burning liquid fossil fuel.

(C) Smelt Dissolving Tanks. The emissions of particulate matter from each smelt dissolving tank vent may not exceed 0.15 kilogram per metric ton (0.30 pound per ton) of production as a daily arithmetic average.

(3) Sulfur Dioxide (SO2). Emissions of sulfur dioxide from each recovery furnace stack may not exceed a three-hour arithmetic average of 300 ppm on a dry-gas basis except when burning fuel oil. The sulfur content of fuel oil used must not exceed the sulfur content of residual and distillate oil established in OAR 340-228-0100 and 340-228-0110, respectively.

(4) Emissions from each kraft mill source, with the exception of the mill's emissions attributable to a recovery furnace, may not equal or exceed 20 percent opacity as a six minute average.

(5) Emissions from each kraft mill source with specific particulate emission limits included in this rule are exempt the grain loading emission limits in OAR chapter 340, division 226 and division 228 and the opacity limits in OAR chapter 340, division 208.

(~~6~~5) New Source Performance Standards. New or modified sources that commenced construction after September 24, 1976, are subject to each provision of this rule and the New Source Performance Standards, 40 CFR part 60 subpart BB as adopted under OAR 340-238-0060, whichever is more stringent.

[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 references to Total Reduced Sulfur.]~~Except for OAR 340-234-0210(1), 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 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0165
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 2-1990, f. & cert. ef. 1-24-90
DEQ 137, f. & ef. 6-10-77
DEQ 50, f. 2-9-73, ef. 3-1-73

Division 236
EMISSION STANDARDS FOR SPECIFIC INDUSTRIES

340-236-8010
Hot Mix Asphalt Plants~~Solid Waste Landfills~~: Table-Process Weight Table

This rule contains the Process Weight Table.

[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.070
Statutes/Other Implemented: ORS 468A.025 & 468A.070
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 4-2018, minor correction filed 01/17/2018, effective 01/17/2018
DEQ 3-2018, minor correction filed 01/16/2018, effective 01/16/2018
DEQ 7-2015, f. & cert. ef. 4-16-15

OAR 340-236-8010
Process Weight Table

Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)	Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)
50	0.24	3400	5.44
100	0.46	3500	5.52
150	0.66	3600	5.61
200	0.85	3700	5.69
250	1.03	3800	5.77
300	1.20	3900	5.85
350	1.35	4000	5.93
400	1.50	4100	6.01
450	1.63	4200	6.08
500	1.77	4300	6.15
550	1.89	4400	6.22
600	2.01	4500	6.30
650	2.12	4600	6.37
700	2.24	4700	6.45
750	2.34	4800	6.52
800	2.43	4900	6.60
850	2.53	5000	6.67
900	2.62	5500	7.03
950	2.72	6000	7.37

OAR 340-236-8010
Process Weight Table

Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)	Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)
1000	2.80	6500	7.71
1100	2.97	7000	8.05
1200	3.12	7500	8.39
1300	3.26	8000	8.71
1400	3.40	8500	9.03
1500	3.54	9000	9.36
1600	3.66	9500	9.67
1700	3.79	10000	10.00
1800	3.91	11000	10.63
1900	4.03	12000	11.28
2000	4.14	13000	11.89
2100	4.24	14000	12.50
2200	4.34	15000	13.13
2300	4.44	16000	13.74
2400	4.55	17000	14.36
2500	4.64	18000	14.97
2600	4.74	19000	15.58
2700	4.84	20000	16.19
2800	4.92	30000	22.22
2900	5.02	40000	28.30

OAR 340-236-8010
Process Weight Table

Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)	Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)
3000	5.10	50000	34.30
3100	5.18	600000	40.00
3200	5.27	Or	
3300	5.36	More	

Division 238
NEW SOURCE PERFORMANCE STANDARDS

340-238-0030
Applicability

This division applies to stationary sources subject to 40 CFR Part 60 as adopted under OAR ~~340-238-0050 and~~ 340-238-0060.

Statutory/Other Authority: ORS 468A **Statutes/Other Implemented:** ORS 468 & 468A
History: DEQ 14-1999, f. & cert. ef. 10-14-99

340-238-0040
Definitions

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

(1) "Administrator" means the Administrator of the EPA or authorized representative.

(2) "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

(3) "Capital expenditures" means an expenditure for a physical or operational change to an existing facility that exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the ~~latest~~ ~~November~~December 1984 ~~2016~~ edition of Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.

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

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

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

(7) "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before 5/30/91 and has

accepted waste at any time since 11/08/87 or has additional design capacity available for future waste deposition.

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

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

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

(11) "Modification:"

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

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

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

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

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

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

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

(15) "Reference method" means any method of sampling and analyzing for an air pollutant as

specified in 40 C.F.R. Part 60.

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

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

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

Statutory/Other Authority: ORS 468.020
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 6-2017, f. & cert. ef. 7-13-17
DEQ 8-2015, f. & cert. ef. 4-17-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 13-2006, f. & cert. ef. 12-22-06
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 4-2003, f. & cert. ef. 2-06-03
DEQ 22-2000, f. & cert. ef. 12-18-00
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0510
DEQ 22-1998, f. & cert. ef. 10-21-98
DEQ 8-1997, f. & cert. ef. 5-6-97
DEQ 27-1996, f. & cert. ef. 12-11-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 17-1993, f. & cert. ef. 11-4-93
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 24-1989, f. & cert. ef. 10-26-89
DEQ 17-1987, f. & ef. 8-24-87
DEQ 19-1986, f. & ef. 11-7-86
DEQ 15-1985, f. & ef. 10-21-85
DEQ 16-1984, f. & ef. 8-21-84
DEQ 17-1983, f. & ef. 10-19-83
DEQ 22-1982, f. & ef. 10-21-82
DEQ 97, f. 9-2-75, ef. 9-25-75

340-238-0070
Compliance

Compliance with standards set forth in this division shall be determined by performance tests

and monitoring methods as set forth in the Federal Regulation adopted by reference in OAR 340-238-00650.

Statutory/Other Authority: ORS 468 & 468A
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0800
Renumbered from 340-700-0000, DEQ 4-1993, f. & cert. ef. 3-10-93
Renumbered from 340-025-0540, DEQ 15-1985, f. & ef. 10-21-85
DEQ 97, f. 9-2-75, ef. 9-25-75

340-238-0080
More Restrictive Regulations

If at any time there is a direct conflict between this division or regional authority rules and the Federal Regulation (40 CFR, Part 60), ~~both shall apply.~~ the federal regulation applies. Direct conflict means that compliance with the state rule creates noncompliance with a federal regulation.

Statutory/Other Authority: ORS 468 & 468A
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0805
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 17-1993, f. & cert. ef. 11-4-93
DEQ 15-1985, f. & cert. ef. 10-21-85, Renumbered from 340-025-0705
DEQ 97, f. 9-2-75, cert. ef. 9-25-75, Renumbered from 340-025-0545

Division 244
OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM

340-244-0040
General Provisions for Stationary Sources: List of Hazardous Air Pollutants

For purposes of this division the EQC adopts by reference the pollutants, including groups of substances and mixtures, listed in section 112(b), as Hazardous Air Pollutants (Table 1).

[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 13-2006, f. & cert. ef. 12-22-06
DEQ 2-2006, f. & cert. ef. 3-14-06

DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0130
DEQ 20-1997, f. & cert. ef. 9-25-97
DEQ 2-1996, f. & cert. ef. 1-2-96
DEQ 13-1993, f. & cert. ef. 9-24-93

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
75-07-0	Acetaldehyde
60-35-5	Acetamide
75-05-8	Acetonitrile
98-86-2	Acetophenone
53-96-3	2-Acetylaminofluorene
107-02-8	Acrolein
79-06-1	Acrylamide
79-10-7	Acrylic acid
107-13-1	Acrylonitrile
107-05-1	Allyl chloride
92-67-1	4-Aminobiphenyl
62-53-3	Aniline
90-04-0	o-Anisidine
1332-21-4	Asbestos
71-43-2	Benzene (including benzene from gasoline)
92-87-5	Benzidine
98-07-7	Benzotrichloride
100-44-7	Benzyl chloride

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
92-52-4	Biphenyl
117-81-7	Bis(2-ethylhexyl) phthalate (DEHP)
542-88-1	Bis(chloromethyl)ether
75-25-2	Bromoform
106-94-5	1-bromopropane (1-BP)
106-99-0	1,3-Butadiene
156-62-7	Calcium cyanamide
133-06-2	Captan
63-25-2	Carbaryl
75-15-0	Carbon disulfide
56-23-5	Carbon tetrachloride
463-58-1	Carbonyl sulfide
120-80-9	Catechol
133-90-4	Chloramben
57-74-9	Chlordane
7782-50-5	Chlorine
79-11-8	Chloroacetic acid
532-27-4	2-Chloroacetophenone
108-90-7	Chlorobenzene
510-15-6	Chlorobenzilate
67-66-3	Chloroform
107-30-2	Chloromethyl methyl ether
126-99-8	Chloroprene
1319-77-3	Cresols/Cresylic acid (isomers and mixture)
95-48-7	o-Cresol
108-39-4	m-Cresol

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
106-44-5	p-Cresol
98-82-8	Cumene
94-75-7	2,4-D, salts and esters
3547-04-4	DDE
334-88-3	Diazomethane
132-64-9	Dibenzofurans
96-12-8	1,2-Dibromo-3-chloropropane
84-74-2	Dibutylphthalate
106-46-7	1,4-Dichlorobenzene(p)
91-94-1	3,3-Dichlorobenzidene
111-44-4	Dichloroethyl ether (Bis(2-chloroethyl)ether)
542-75-6	1,3-Dichloropropene
62-73-7	Dichlorvos
111-42-2	Diethanolamine
121-69-7	N,N-Diethyl aniline (N,N-Dimethylaniline)
64-67-5	Diethyl sulfate
119-90-4	3,3-Dimethoxybenzidine
60-11-7	Dimethyl aminoazobenzene
119-93-7	3,3’-Dimethyl benzidine
79-44-7	Dimethyl carbamoyl chloride
68-12-2	Dimethyl formamide
57-14-7	1,1-Dimethyl hydrazine
131-11-3	Dimethyl phthalate
77-78-1	Dimethyl sulfate
534-52-1	4,6-Dinitro-o-cresol, and salts
51-28-5	2,4-Dinitrophenol
121-14-2	2,4-Dinitrotoluene
123-91-1	1,4-Dioxane (1,4-Diethyleneoxide)
122-66-7	1,2-Diphenylhydrazine
106-89-8	Epichlorohydrin (l-Chloro-2,3-

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
	epoxypropane)
106-88-7	1,2-Epoxybutane
140-88-5	Ethyl acrylate
100-41-4	Ethyl benzene
51-79-6	Ethyl carbamate (Urethane)
75-00-3	Ethyl chloride (Chloroethane)
106-93-4	Ethylene dibromide (Dibromoethane)
107-06-2	Ethylene dichloride (1,2-Dichloroethane)
107-21-1	Ethylene glycol
151-56-4	Ethylene imine (Aziridine)
75-21-8	Ethylene oxide
96-45-7	Ethylene thiourea
75-34-3	Ethylidene dichloride (1,1-Dichloroethane)
50-00-0	Formaldehyde
76-44-8	Heptachlor
118-74-1	Hexachlorobenzene
87-68-3	Hexachlorobutadiene
77-47-4	Hexachlorocyclopentadiene
67-72-1	Hexachloroethane
822-06-0	Hexamethylene-1,6-diisocyanate
680-31-9	Hexamethylphosphoramide
110-54-3	Hexane
302-01-2	Hydrazine
7647-01-0	Hydrochloric acid
7664-39-3	Hydrogen fluoride (Hydrofluoric acid)
123-31-9	Hydroquinone
78-59-1	Isophorone
58-89-9	Lindane (all isomers)
108-31-6	Maleic anhydride
67-56-1	Methanol

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
72-43-5	Methoxychlor
74-83-9	Methyl bromide (Bromomethane)
74-87-3	Methyl chloride (Chloromethane)
71-55-6	Methyl chloroform (1,1,1-Trichloroethane)
60-34-4	Methyl hydrazine
74-88-4	Methyl iodide (Iodomethane)
108-10-1	Methyl isobutyl ketone (Hexone)
624-83-9	Methyl isocyanate
80-62-6	Methyl methacrylate
1634-04-4	Methyl tert butyl ether
101-14-4	4,4-Methylene bis(2-chloroaniline)
75-09-2	Methylene chloride (Dichloromethane)
101-68-8	Methylene diphenyl diisocyanate (MDI)
101-77-9	4,4-Methylenedianiline
91-20-3	Naphthalene
98-95-3	Nitrobenzene
92-93-3	4-Nitrobiphenyl
100-02-7	4-Nitrophenol
79-46-9	2-Nitropropane
684-93-5	N-Nitroso-N-methylurea
62-75-9	N-Nitrosodimethylamine
59-89-2	N-Nitrosomorpholine
56-38-2	Parathion
82-68-8	Pentachloronitrobenzene (Quintobenzene)
87-86-5	Pentachlorophenol
108-95-2	Phenol
106-50-3	p-Phenylenediamine
75-44-5	Phosgene

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
7803-51-2	Phosphine
7723-14-0	Phosphorus
85-44-9	Phthalic anhydride
1336-36-3	Polychlorinated biphenyls (Aroclors)
1120-71-4	1,3-Propane sultone
57-57-8	beta-Propiolactone
123-38-6	Propionaldehyde
114-26-1	Propoxur (Baygon)
78-87-5	Propylene dichloride (1,2-Dichloropropane)
75-56-9	Propylene oxide
75-55-8	1,2-Propylenimine (2-Methyl aziridine)
91-22-5	Quinoline
106-51-4	Quinone
100-42-5	Styrene
96-09-3	Styrene oxide
1746-01-6	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79-34-5	1,1,2,2-Tetrachloroethane
127-18-4	Tetrachloroethylene (Perchloroethylene)
7550-45-0	Titanium tetrachloride
108-88-3	Toluene
95-80-7	2,4-Toluene diamine
584-84-9	2,4-Toluene diisocyanate
95-53-4	o-Toluidine
8001-35-2	Toxaphene (chlorinated camphene)
120-82-1	1,2,4-Trichlorobenzene
79-00-5	1,1,2-Trichloroethane
79-01-6	Trichloroethylene
95-95-4	2,4,5-Trichlorophenol
88-06-2	2,4,6-Trichlorophenol

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
121-44-8	Triethylamine
1582-09-8	Trifluralin
540-84-1	2,2,4-Trimethylpentane
108-05-4	Vinyl acetate
593-60-2	Vinyl bromide
75-01-4	Vinyl chloride
75-35-4	Vinylidene chloride (1,1-Dichloroethylene)
1330-20-7	Xylenes (isomers and mixture)
95-47-6	o-Xylenes
108-38-3	m-Xylenes
106-42-3	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds[1]
0	Glycol ethers[2]
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers[3]
0	Nickel Compounds
0	Polycyclic Organic Matter[4]
0	Radionuclides (including radon)[5]
0	Selenium Compounds

NOTE: *For all listings above that contain the word "compounds" and for glycol ethers, the following applies:* Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

*1 X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or $Ca(CN)_2$

*2 Glycol ethers include mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol $R-(OCH_2CH_2)_n-OR'$.

Where:

n = 1, 2, or 3;

R = alkyl C7 or less; or

R = phenyl or alkyl substituted

phenyl; R' = H, or alkyl C7 or

less; or

OR' consisting of carboxylic acid ester, sulfate, phosphate, nitrate, or sulfonate. Does not include ethylene glycol monobutyl ether (EGBE, 2-Butoxyethanol)(CAS No. 111-76-2).

*3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

*4 Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.

*5 A type of atom which spontaneously undergoes radioactive decay.

Division 245
CLEANER AIR OREGON

340-245-0060
Toxics Emissions Units

(1) TEU Designation. An owner or operator must designate TEUs in the same manner as the owner or operator designated emissions units listed in a source's operating or construction permit, if they are designated, unless the owner or operator requests a different designation in writing and DEQ approves that request in writing. The request for a new or a different TEU designation must be compatible with the following:

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

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

(c) Where multiple emissions-producing activities exhaust through a common opening, exhaust stack or emissions control device, all of these emissions producing activities may be considered a single TEU or may be considered separate TEUs;

(d) The list of TEUs should not be limited to what is listed in a source's operating or construction permit but should include all processes and activities that emit toxic air contaminants; and

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

(2) Aggregated TEUs.

(a) An owner or operator must designate the same TEUs as aggregated TEUs for all of the different types of risk: excess cancer risk, chronic noncancer risk and acute noncancer risk.

(b) An owner or operator may choose to assign risk from aggregated TEUs based on either:

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

(B) The modeled risk from the approved risk assessment.

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

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

(3) Exempt TEUs. A TEU is an exempt TEU if it meets the criteria in subsection (a) or (b):

(a) The owner or operator of the TEU has demonstrated that the TEU is not likely to materially contribute risk ~~emit toxic air contaminants~~ and DEQ approves such demonstration. The demonstration may include any information the owner or operator considers relevant, including but not limited to:

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

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

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

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

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

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

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

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

(D) Office activities;

(E) Food service activities;

(F) Janitorial activities;

(G) Personal care activities;

(H) Groundskeeping activities including, but not limited to, building painting and road and

parking lot maintenance;

(I) On-site laundry activities;

(J) On-site recreation facilities;

(K) Instrument calibration;

(L) Automotive storage garages;

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

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

(O) Temporary construction activities;

(P) Warehouse activities;

(Q) Accidental fires and fire suppression;

(R) Air vents from air compressors;

(S) Air purification systems;

(T) Continuous emissions monitoring vent lines;

(U) Demineralized water tanks;

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

(W) Electrical charging stations;

(X) Fire brigade training;

(Y) Instrument air dryers and distribution;

(Z) Fully enclosed process raw water filtration systems;

(AA) Electric motors;

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

(CC) Vacuum sheet stacker vents;

(DD) 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;

(EE) Log ponds;

(FF) Stormwater settling basins;

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

(HH) 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;

(II) Health, safety, and emergency response activities;

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

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

(LL) Non-contact steam condensate flash tanks;

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

(NN) Boiler blowdown tanks; and

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

(4) New or modified TEU requirements.

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

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

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

(B) Revise and update any materials submitted to date under OAR 340-245-0050 to include the new or modified TEU by a date certain.

(c) The owner or operator of a source that previously has been issued a Toxic Air Contaminant Permit Addendum or an operating permit in compliance with this division and that proposes to construct a new or modified TEU must follow the applicable procedures in paragraphs (c)(A) through (C) and must pay to DEQ all applicable specific activity fees under OAR 340-216-8020 Table 2 Part 4 and OAR 340-216-8030 Table 3.

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

(B) New or modified aggregated TEUs.

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

(ii) If the current aggregated TEUs are permitted at the modeled risk levels as specified in OAR 340-245-0060(2)(b)(B), the owner or operator may add the risk from the new or modified aggregated TEU to prior results from the latest risk assessment for the source rather than updating the entire risk assessment for the source.

(iii) The owner or operator must request approval of a new or modified aggregated TEU by submitting an application to modify its Toxic Air Contaminant Permit Addendum or operating permit as required under OAR 340-245-0100(8).

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

(C) New or modified significant TEUs.

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

(I) Information necessary to assess the risk from the new or modified significant TEU using any risk assessment procedure, Level 1 through Level 4, under OAR 340-245-0050(8) through (11). The owner or operator may add the risk from the new or modified TEU to prior results from the latest risk assessment for the source rather than updating the entire risk assessment for the source; and

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

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

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

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

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

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

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

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.135, ORS 468A.337
Statutes/Other Implemented: 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ORS 468A.335, ORS 468A.337
History:
DEQ 18-2021, amend filed 11/17/2021, effective 11/17/2021
DEQ 197-2018, adopt filed 11/16/2018, effective 11/16/2018

State of Oregon Department of Environmental Quality

Air Quality Permitting Updates 2022 Rules

Division 200
GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

340-200-0020
General Air Quality Definitions

As used in OAR chapter 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 chapter 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 C.F.R. 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, exclusive of uncombined water.

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

(10) “Air pollution control device” or “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.

(a) 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 (e.g., carbon beds, condensers); scrubbers (e.g., wet collection and gas absorption devices); selective catalytic or non-catalytic reduction systems; flue gas recirculation systems; spray dryers; spray towers; mist eliminators at acid plants and sulfur recovery plants; injection systems (e.g., 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).

(b)(A) 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.

(B) 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.

(11) "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.

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

(13) "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 C.F.R. 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 chapter 340, division 216, including any term or condition of any preconstruction permits issued under OAR chapter 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 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 under section 504(e) of the FCAA.

(14) “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 chapter 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.

(15) “Attainment pollutant” means a pollutant for which an area is designated an attainment or unclassified area.

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

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

(18) "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.

(19) "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.

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

(21) “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.

(22) "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.

(23) "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 C.F.R. 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.

(24) "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.

(25) "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.

(26) "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.

(27) “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.

(28) “Class III area” or “PSD Class III area’ means any land which is reclassified as a Class III area under OAR 340-204-0060.

(29) "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.

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

(31) "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.

(32) "Construction":

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

(b) As used in OAR chapter 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.

(33) "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.

(34) "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, found in OAR 340-200-0035, and includes continuous emission monitoring systems, continuous opacity monitoring system (COMS) and continuous parameter monitoring systems.

(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) NOx = 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 PM2.5 = 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 chapter 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, found in OAR 340-200-0035.

(42) “Designated area” means an area that has been designated as an attainment, unclassified, sustainment, nonattainment, reattainment, or maintenance area under OAR chapter 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(s) limitation," “emission(s) limit,” "emission(s) standard or “emission(s) limitation or standard” means:

(a) Except as provided in subsection (b), a requirement established by a state, local government, or EPA rule; a permit condition or order, 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(s) limit, emission(s) limitation, emission(s) standard, standard of performance or means of emission(s) 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 chapter 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 chapter 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 C.F.R. 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 in excess of an emission limit, or a risk limit under OAR chapter 340, division 245, contained in an applicable requirement, a permit or permit attachment limit; or emissions 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 chapter 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 chapter 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 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 chapter 340, division 218 means an Oregon Title V Operating Permit established under OAR 340-218-0090.

(72)(a) "Greenhouse gases" or "GHGs" means the aggregate group of carbon dioxide (CO2), methane (CH4), nitrous oxide (N20), sulfur hexafluoride (SF6), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated greenhouse gases or fluorinated GHG as defined in 40 C.F.R. part 98.

(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.

(73) "Growth allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed sources and modifications of sources.

(74) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(75) “Hazardous Air Pollutant” or “HAP” means an air contaminant listed by the EPA 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.

(76) "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.

(77) "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.

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

(79) "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.

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

(81) "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.

(82) “Internal combustion engine” means stationary gas turbines and reciprocating internal combustion engines.

(83) "Late payment" means a fee payment which is received after the due date.

(84) "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."

(85) "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.

(86) "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 under 40 C.F.R. 51.110. Maintenance areas are designated by the EQC according to division 204.

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

(88) "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.

(89) “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.

(90) "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 chapter 340, division 210, Stationary Source Notification Requirements; Compliance Assurance Monitoring, OAR 340-212-0200 through 340-212-0280; OAR 340-216-0066, Standard ACDPs; OAR chapter 340, division 218, Oregon Title V Operating Permits; OAR chapter 340, division 220, Oregon Title V Operating Permit Fees; 340-216-0066, Standard ACDPs, and OAR chapter 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 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.

(91) "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.

(92) "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.

(93) "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 C.F.R. 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.

(94) "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.

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

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

(97) "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.

(98) "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.

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

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

(101) "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.

(102) "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.

(103) "Oregon Title V Operating Permit" or “Title V permit” means written authorization issued, renewed, amended, or revised under OAR chapter 340, division 218.

(104) "Oregon Title V Operating Permit program" or “Title V program” means the Oregon program described in OAR chapter 340, division 218 and approved by the Administrator under 40 C.F.R. part 70.

(105) "Oregon Title V Operating Permit program source" or “Title V source” means any source subject to the permitting requirements, OAR chapter 340, division 218.

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

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

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

(109) "Particulate matter":

(a) Except as provided in subsection (b) of this section, means all finely divided solid and liquid material, other than uncombined water, that is 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.

(b) As used in OAR chapter 340, division 208, Visible Emissions and Nuisance Requirements, means all finely divided solid material, including dust, and all finely divided liquid material, other than uncombined water, that is emitted to the ambient air.

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

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

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

(113) "Permitted emissions" as used in OAR chapter 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 under OAR 340-220-0090.

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

(115) "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.

(116) "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 chapter 340, division 220.

(117) “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.

(118) "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 C.F.R. part 50, Appendix J or an equivalent method designated under 40 C.F.R. part 53.

(119) "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 (NOx) 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 C.F.R. part 50, Appendix L, or an equivalent method designated under 40 C.F.R. part 53.

(120) "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.

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

(122) “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.

(123) "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 U.S. EPA 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.

(124) "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.

(125) "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.

(126) "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.

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

(128) "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.

(129) "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.

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

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

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

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

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

(A) Nitrogen oxides or any VOCs;

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

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

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

(E) Any pollutant listed under OAR 340-244-0040 or 40 C.F.R. 68.130;

(F) Greenhouse gases; and

(G) Toxic Air Contaminants.

(b) As used in OAR chapter 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 chapter 340, division 222, Plant Site Emission Limits and division 224, New Source Review, regulated pollutant does not include any pollutant listed in OAR chapter 340, divisions 244, 246, and 247.

(d) As used in OAR chapter 340, division 202, Ambient Air Quality Standards And PSD Increments through division 208, Visible Emissions and Nuisance Requirements; division 215, Greenhouse Reporting Requirements; division 222, Stationary Source Plant Site Emission Limits through division 244, Oregon Federal Hazardous Air Pollutant Program; and division 248, Asbestos Requirements through division 268, Emission Reduction Credits; regulated pollutant means only the air contaminants listed under paragraphs (a)(A) through (F).

(134) “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.

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

(136) "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.

(137) "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.

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

(139) "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.

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

(141) "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.

(142) "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.

(143) "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.

(144) "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.

(145) "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.

(146) "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.

(147) "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.

(148) "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 NOx in ozone nonattainment areas.

(149) "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 NOx sources in ozone nonattainment areas.

(150) "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.

(151) "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.

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

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

(154) "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."

(155) "Section 328" means section 328 of the FCAA, 42 U.S.C. § 7627, which contains

regulations for air pollution from outer continental shelf activities.

(156) "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.

(157) "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.

(158) "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.

(159) "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.

(160) "Significant emission rate" or "SER," except as provided in subsections (v) and (w), means an emission rate equal to 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 NOx) = 40 tons per year.

(h) Sulfur dioxide (SO2) = 40 tons per year.

(i) Ozone precursors (VOC or NOx) = 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) Inorganic fluoride compounds (as measured by EPA method 13A or 13B), excluding hydrogen fluoride = 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 5.0 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.

(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 ug/m3 (24 hour average) is emitting at a SER. This subsection does not apply to greenhouse gas emissions.

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

(162) “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 chapter 340, division 202, but do not apply for protecting air quality related values, including visibility.

(a) For Class I areas:

(A) PM2.5:

(i) Annual = 0.06 μg/m3.

(ii) 24-hour = 0.07 μg/m3.

(B) PM10:

(i) 24-hour = 0.30 μg/m3.

(C) Sulfur dioxide:

(i) Annual = 0.10 μg/m3.

(ii) 24-hour = 0.20 μg/m3.

(iii) 3-hour = 1.0 μg/m3.

(D) Nitrogen dioxide: annual = 0.10 μg/m3.

(b) For Class II areas:

(A) PM2.5:

(i) Annual = 0.3 μg/m3.

(ii) 24-hour = 1.2 μg/m3.

(B) PM10:

(i) 24-hour = 1.0 μg/m3.

(C) Sulfur dioxide:

(i) Annual = 1.0 μg/m3.

(ii) 24-hour = 5.0 μg/m3.

(iii) 3-hour =25.0 μg/m3.

(iv) 1-hour = 8.0 μg/m3.

(D) Nitrogen dioxide:

(i) Annual =1.0 μg/m3.

(ii) 1-hour = 8.0 μg/m3.

(E) Carbon monoxide:

(i) 8-hour = 0.5 mg/m3.

(ii) 1-hour = 2.0 mg/m3.

(c) For Class III areas:

(A) PM2.5:

(i) Annual = 0.3 μg/m3.

(ii) 24-hour = 1.2 μg/m3.

(B) PM10:

(i) 24-hour = 1.0 μg/m3.

(C) Sulfur dioxide:

(i) Annual = 1.0 μg/m3.

(ii) 24-hour = 5.0 μg/m3.

(iii) 3-hour = 25.0 μg/m3.

(D) Nitrogen dioxide: annual = 1.0 μg/m3

(E) Carbon monoxide:

(i) 8-hour = 0.5 mg/m3.

(ii) 1-hour = 2.0 mg/m3.

(163) "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.

(164) "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.

(165) "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.

(166) "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 chapter 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 air pollution control device.

(167) "Source test" means the average of at least three test runs conducted under the DEQ Source Sampling Manual found in 340-200-0035.

(168) "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).

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

(170) "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.

(171) “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.

(172) "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 chapter 340, division 216.

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

(174) “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.

(175) “Sustainment pollutant” means a regulated pollutant for which an area is designated a sustainment area.

(176) "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.

(177) "Title I modification" means one of the following modifications 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.

(178) "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).

(179) “Toxic air contaminant” means an air pollutant that has been determined by the EQC to cause, or reasonably be anticipated to cause, adverse effects to human health and is listed in OAR 340-247-8010 Table 1.

(180) “Type A State NSR” means State NSR as specified in OAR 340-224-0010(2)(a).

(181) “Type B State NSR” means State NSR that is not Type A State NSR.

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

(184) "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) “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 chapter 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) "Upset" or "Breakdown" means any failure or malfunction of any air pollution control device or operating equipment that may cause excess emissions.

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

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

(189) "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) "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) VOC 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;

(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;

(III) cis-1,1,1,4,4,4-hexafluorobut-2-ene (also known as HFO-1336mzz-Z); and

(JJJ) t-butyl acetate.

(b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable test method in the DEQ Source Sampling Manual referenced in OAR 340-200-0035. 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) When considering a requested exclusion of negligibly-reactive compounds under subsection (b), DEQ may require an owner or operator to provide monitoring or testing methods and results that demonstrate, to DEQ's satisfaction, the amount of negligibly-reactive compounds in the source's emissions.

(191) "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) “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) "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 chapter 340, division 245.

[NOTE: Referenced publications not linked to below are available from the agency.]

[NOTE: View a PDF of referenced tables and EPA Methods by clicking on "Tables" link below.]

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

Statutory/Other Authority: ORS 468.020 & 468A
Statutes/Other 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
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 12-2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15
DEQ 11-2013, f. & cert. ef. 11-7-13
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2012, f. & cert. ef. 5-17-12
DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 10-2008, f. & cert. ef. 8-25-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0205, 340-028-0110

DEQ 6-1999, f. & cert. ef. 5-21-99
DEQ 1-1999, f. & cert. ef. 1-25-99
DEQ 21-1998, f. & cert. ef. 10-14-98
DEQ 16-1998, f. & cert. ef. 9-23-98
DEQ 14-1998, f. & cert. ef. 9-14-98
DEQ 9-1997, f. & cert. ef. 5-9-97
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 12-1995, f. & cert. ef. 5-23-95
DEQ 10-1995, f. & cert. ef. 5-1-95
DEQ 24-1994, f. & cert. ef. 10-28-94
DEQ 21-1994, f. & cert. ef. 10-14-94
DEQ 13-1994, f. & cert. ef. 5-19-94
DEQ 20-1993(Temp), f. & cert. ef. 11-4-93
DEQ 19-1993, f. & cert. ef. 11-4-93
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 4-1993, f. & cert. ef. 3-10-93
DEQ 27-1992, f. & cert. ef. 11-12-92
DEQ 7-1992, f. & cert. ef. 3-30-92
DEQ 2-1992, f. & cert. ef. 1-30-92
DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91
DEQ 14-1989, f. & cert. ef. 6-26-89
DEQ 8-1988, f. & cert. ef. 5-19-88
DEQ 18-1984, f. & cert. ef. 10-16-84
DEQ 5-1983, f. & cert, ef. 4-18-83
DEQ 25-1981, f. & cert. ef. 9-8-81
DEQ 15-1978, f. & cert. ef. 10-13-78
DEQ 107, f. & cert. ef. 1-6-76, Renumbered from 340-020-0033
DEQ 63, f. 12-20-73, cert. ef. 1-11-74
DEQ 47, f. 8-31-72, cert. ef. 9-15-72

340-200-0025
Abbreviations and Acronyms

(1) “AAQS” means ambient air quality standard.

(2) "ACDP" means Air Contaminant Discharge Permit.

(3) "ACT" means Federal Clean Air Act.

(4) "AE" means Actual Emissions.

(5) "AICPA" means Association of Independent Certified Public Accountants.

(6) "AQCR" means Air Quality Control Region.

(7) “AQRV” means Air Quality Related Value

(8) "AQMA" means Air Quality Maintenance Area.

(9) "ASME" means American Society of Mechanical Engineers.

(10) "ASTM" means American Society for Testing & Materials.

(11) "ATETP" means Automotive Technician Emission Training Program.

(12) "AWD" means all wheel drive.

(13) "BACT" means Best Available Control Technology.

(14) “BART” means Best Available Retrofit Technology.

(15) "BLS" means black liquor solids.

(16) "CAA" means Clean Air Act

(17) "CAR" means control area responsible party.

(18) "CBD" means central business district.

(19) "CCTMP" means Central City Transportation Management Plan.

(20) "CEM" means continuous emissions monitoring.

(21) "CEMS" means continuous emission monitoring system.

(22) "CERCLA" means Comprehensive Environmental Response Compensation and Liability Act.

(23) "CFRMS" means continuous flow rate monitoring system.

(24) "CFR" or “C.F.R.” means Code of Federal Regulations.

(25) "CMS" means continuous monitoring system.

(26) "CO" means carbon monoxide.

(27) “CO2e” means carbon dioxide equivalent.

(28) "COMS" means continuous opacity monitoring system.

(29) "CPMS" means continuous parameter monitoring system.

(30) "DEQ" means Department of Environmental Quality.

(31) "DOD" means Department of Defense.

(32) "EA" means environmental assessment.

(33) "ECO" means employee commute options.

(34) "EEAF" means emissions estimate adjustment factor.

(35) "EF" means emission factor.

(36) "EGR" means exhaust gas re-circulation.

(37) "EIS" means Environmental Impact Statement.

(38) "EPA" means Environmental Protection Agency.

(39) "EQC" means Environmental Quality Commission.

(40) "ESP" means electrostatic precipitator.

(41) "FCAA" means Federal Clean Air Act.

(42) "FHWA" means Federal Highway Administration.

(43) "FONSI" means finding of no significant impact.

(44) "FTA" means Federal Transit Administration.

(45) "GFA" means gross floor area.

(46) “GHG” means greenhouse gases.

(47) "GLA" means gross leasable area.

(48) "GPM" means grams per mile.

(49) "gr/dscf" means grains per dry standard cubic foot.

(50) "GTBA" means grade tertiary butyl alcohol.

(51) "GVWR" means gross vehicle weight rating.

(52) "HAP" means hazardous air pollutant.

(53) "HEPA" means high efficiency particulate air.

(54) "HMIWI" means hospital medical infectious waste incinerator.

(55) "I/M" means inspection and maintenance program.

(56) "IG" means inspection grade.

(57) "IRS" means Internal Revenue Service.

(58) "ISECP" means indirect source emission control program.

(59) "ISTEA" means Intermodal Surface Transportation Efficiency Act.

(60) "LAER" means Lowest Achievable Emission Rate.

(61) "LDT2" means light duty truck 2.

(62) "LIDAR" means laser radar; light detection and ranging.

(63) "LPG" means liquefied petroleum gas.

(64) "LRAPA" means Lane Regional Air Protection Agency.

(65) "LUCS" means Land Use Compatibility Statement.

(66) "MACT" means Maximum Achievable Control Technology.

(67) "MPO" means Metropolitan Planning Organization.

(68) "MTBE" means methyl tertiary butyl ether.

(69) "MWC" means municipal waste combustor.

(70) "NAAQS" means National Ambient Air Quality Standards.

(71) “NAICS” means North American Industrial Classification System.

(72) "NEPA" means National Environmental Policy Act.

(73) "NESHAP" means National Emissions Standard for Hazardous Air Pollutants.

(74) "NIOSH" means National Institute of Occupational Safety & Health.

(75) "NOx" means nitrogen oxides.

(76) "NSPS" means New Source Performance Standards.

(77) "NSR" means New Source Review.

(78) "NSSC" means neutral sulfite semi-chemical.

(79) "O3" means ozone.

(80) "OAR" means Oregon Administrative Rules.

(81) "ODOT" means Oregon Department of Transportation.

(82) "ORS" means Oregon Revised Statutes.

(83) "OSAC" means orifice spark advance control.

(84) "OSHA" means Occupational Safety & Health Administration.

(85) "PCDCE" means pollution control device collection efficiency.

(86) "PEMS" means predictive emission monitoring system.

(87) "PM" means particulate matter.

(88) "PM10" means particulate matter less than 10 microns.

(89) “PM2.5” means particulate matter less than 2.5 microns.

(90) "POTW" means Publicly Owned Treatment Works.

(91) "POV" means privately owned vehicle.

(92) “ppm” means parts per million.

(93) "PSD" means Prevention of Significant Deterioration.

(94) "PSEL" means Plant Site Emission Limit.

(95) "QIP" means quality improvement plan.

(96) "RACT" means Reasonably Available Control Technology.

(97) “ROI” means range of influence.

(98) "RVCOG" means Rogue Valley Council of Governments.

(99) "RWOC" means running weighted oxygen content.

(100) "scf" means standard cubic feet.

(101) "SCS" means speed control switch.

(102) "SD" means standard deviation.

(103) “SER” means significant emission rate.

(104) “SERP” means source emission reduction plan.

(105) “SIC” means Standard Industrial Classification from the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987).

(106) "SIP" means State Implementation Plan.

(107) "SKATS" means Salem-Keizer Area Transportation Study.

(108) “SLAMS” means State or Local Air Monitoring Stations.

(109) "SO2" means sulfur dioxide.

(110) "SOCMI" means synthetic organic chemical manufacturing industry.

(111) "SOS" means Secretary of State.

(112) “SPMs” means Special Purpose Monitors.

(113) "TAC" means thermostatic air cleaner.

(114) "TACT" means Typically Achievable Control Technology.

(115) "TCM" means transportation control measures.

(116) "TCS" means throttle control solenoid.

(117) "TIP" means Transportation Improvement Program.

(118) “tpy” means tons per year.

(119) "TRS" means total reduced sulfur.

(120) "TSP" means total suspended particulate matter.

(121) "UGA" means urban growth area.

(122) "UGB" means urban growth boundary.

(123) “USC” means United States Code.

(124) "US DOT" means United States Department of Transportation.

(125) "UST" means underground storage tanks.

(126) "UTM" means universal transverse mercator.

(127) "VIN" means vehicle identification number.

(128) "VMT" means vehicle miles traveled.

(129) "VOC" means volatile organic compounds.

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 & 468A

Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 3-2007, f. & cert. ef. 4-12-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

DEQ 15, f. 6-12-70, ef. 9-1-70

340-200-0035
Reference Materials

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

(1) "C.F.R." or “CFR” means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, 2022 edition.

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

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

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

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

Statutory/Other Authority: ORS 468.020 & 468A
Statutes/Other Implemented: ORS 468A
History:
DEQ 2-2019, minor correction filed 01/07/2019, effective 01/07/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 53-2017, minor correction filed 12/19/2017, effective 12/19/2017
DEQ 7-2015, f. & cert. ef. 4-16-15

340-200-0040
State of Oregon Clean Air Act Implementation Plan

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

(2) Except as provided in section (3), revisions to the SIP will be made under the EQC’s rulemaking procedures in OAR chapter 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 November 18, 2022.

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

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

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

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

Statutory/Other Authority: ORS 468.020 & 468A
Statutes/Other Implemented: ORS 468A.035 & 468A.135
History:
DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019
DEQ 14-2019, amend filed 05/17/2019, effective 05/17/2019
DEQ 4-2019, amend filed 01/24/2019, effective 01/24/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 192-2018, amend filed 09/14/2018, effective 09/14/2018
DEQ 190-2018, amend filed 07/13/2018, effective 07/13/2018
DEQ 11-2018, amend filed 03/23/2018, effective 03/23/2018
DEQ 7-2017, f. & cert. ef. 7-13-17
DEQ 2-2017, f. & cert. ef. 1-19-17
DEQ 14-2015, f. & cert. ef. 12-10-15
DEQ 10-2015, f. & cert. ef. 10-16-15
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2015, f. & cert. ef. 4-16-15
DEQ 7-2014, f. & cert. ef. 6-26-14
DEQ 6-2014, f. & cert. ef. 3-31-14
DEQ 5-2014, f. & cert. ef. 3-31-14
DEQ 4-2014, f. & cert. ef. 3-31-14
DEQ 1-2014, f. & cert. ef. 1-6-14
DEQ 12-2013, f. & cert. ef. 12-19-13
DEQ 11-2013, f. & cert. ef. 11-7-13
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 10-2012, f. & cert. ef. 12-11-12
DEQ 7-2012, f. & cert. ef 12-10-12
DEQ 1-2012, f. & cert. ef. 5-17-12
DEQ 18-2011, f. & cert. ef. 12-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 14-2010, f. & cert. ef. 12-10-10
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 2-2010, f. & cert. ef. 3-5-10
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 3-2009, f. & cert. ef. 6-30-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 14-2008, f. & cert. ef. 11-10-08
DEQ 12-2008, f. & cert. ef. 9-17-08
DEQ 11-2008, f. & cert. ef. 8-29-08
DEQ 5-2008, f. & cert. ef. 3-20-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 4-2007, f. & cert. ef. 6-28-07
DEQ 3-2007, f. & cert. ef. 4-12-07
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 9-2005, f. & cert. ef. 9-9-05
DEQ 7-2005, f. & cert. ef. 7-12-05
DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 1-2005, f. & cert. ef. 1-4-05
DEQ 10-2004, f. & cert. ef. 12-15-04
DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 19-2003, f. & cert. ef. 12-12-03
DEQ 14-2003, f. & cert. ef. 10-24-03
DEQ 5-2003, f. & cert. ef. 2-6-03
DEQ 11-2002, f. & cert. ef. 10-8-02
DEQ 5-2002, f. & cert. ef. 5-3-02
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 17-2001, f. & cert. ef. 12-28-01
DEQ 16-2001, f. & cert. ef. 12-26-01
DEQ 15-2001, f. & cert. ef. 12-26-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 4-2001, f. & cert. ef. 3-27-01
DEQ 2-2001, f. & cert. ef. 2-5-01
DEQ 21-2000, f. & cert. ef. 12-15-00
DEQ 20-2000 f. & cert. ef. 12-15-00
DEQ 17-2000, f. & cert. ef. 10-25-00
DEQ 16-2000, f. & cert. ef. 10-25-00
DEQ 13-2000, f. & cert. ef. 7-28-00
DEQ 8-2000, f. & cert. ef. 6-6-00
DEQ 6-2000, f. & cert. ef. 5-22-00
DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01
DEQ 15-1999, f. & cert. ef. 10-22-99
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047

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

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

Division 204
DESIGNATION OF AIR QUALITY AREAS

340-204-0300
Designation of Sustainment Areas

(1) The EQC may designate sustainment areas provided that DEQ submits a request for designation that includes the following information:

(a) Monitoring data showing that an area is exceeding or has the potential to exceed an ambient air quality standard;

(b) A description of the affected area based on the monitoring data;

(c) A discussion and identification of the priority sources contributing to the exceedance or potential exceedance of the ambient air quality standard; and

(d) A discussion of the reasons for the proposed designation.

(2) Designation of sustainment areas:

(a) The Lakeview UGB as defined in OAR 340-204-0010 is designated as a sustainment area for PM2.5.

(b) Reserved

(3) An area designated as a sustainment area under section (2) will automatically be reclassified immediately upon the EPA officially designating the area as a nonattainment area.

(4) The EQC may rescind the designation based on a request by DEQ. DEQ will consider the following information for rescinding the designation:

(a) Whether at least three consecutive years of monitoring data shows the area is meeting the ambient air quality standard; and

(b) A request by a local government.

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 & 468A
Statutes/Other Implemented: ORS 468A.025 & 468A.035
History:
DEQ 7-2015, f. & cert. ef. 4-16-15

340-204-0310
Designation of Reattainment Areas

(1) The EQC may designate reattainment areas provided that DEQ submits a request for designation that includes the following information:

(a) At least three consecutive years of monitoring data showing that an area that is currently designated by EPA as nonattainment is attaining an ambient air quality standard; and

(b) A discussion of the reasons for the proposed designation.

(2) Reserved for list of reattainment areas.

(3) An area designated as a reattainment area under section (2) will automatically be reclassified immediately upon:

(a) The EQC designating the area as a maintenance area and EPA officially designating the area as an attainment area; or

(b) The EQC rescinding the designation based on a request by DEQ. DEQ will consider the following information for rescinding the designation:

(A) Monitoring data that shows the area is not meeting the ambient air quality standard; and

(B) A request by a local government.

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 & 468A
Statutes/Other Implemented: ORS 468A.025 & 468A.035
History:
DEQ 7-2015, f. & cert. ef. 4-16-15

Division 206
AIR POLLUTION EMERGENCIES

340-206-0010
Introduction

OAR 340-206-0030, 340-206-0050 and 340-206-0060 are effective within priority I and II air quality control regions (AQCR) as defined in 40 CFR part 51, subpart H (1995), when the AQCR contains an AQMA as defined in OAR 340-204-0010, or a nonattainment area listed in 40 CFR part 81. All other rules in this division are equally applicable to all areas of the state. Notwithstanding any other regulation or standard, this division is designed to prevent the excessive accumulation of air contaminants during periods of atmospheric stagnation or at any other time, which if allowed to continue to accumulate unchecked could result in concentrations of these contaminants reaching levels which could cause significant harm to the health of persons. This division establishes criteria for identifying and declaring air pollution episodes at levels below the level of significant harm and are adopted pursuant to the requirements of the FCAA as amended and 40 CFR part 51.151. Levels of significant harm for various regulated pollutants listed in 40 CFR part 51.151 are:

(1) For sulfur dioxide (SO2) — 1.0 ppm, 24-hour average.

(2) For particulate matter:

(a) PM10 — 600 micrograms per cubic meter, 24-hour average.

(b) PM2.5 — 350.5 micrograms per cubic meter, 24-hour average.

(3) For carbon monoxide (CO):

(a) 50 ppm, 8-hour average.

(b) 75 ppm, 4-hour average.

(c) 125 ppm, 1-hour average.

(4) For ozone (O3) — 0.6 ppm, 2-hour average.

(5) For nitrogen dioxide (NO2):

(a) 2.0 ppm, 1-hour average.

(b) 0.5 ppm, 24-hour average.

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 & 468A
Statutes/Other Implemented: ORS 468A.025 & 468A.035
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 5-2010, f. & cert. ef. 5-21-10
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-027-0005
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88)
DEQ 18-1983, f. & ef. 10-24-83
DEQ 37, f. 2-15-72, ef. 9-1-72

Division 208
VISIBLE EMISSIONS AND NUISANCE REQUIREMENTS

340-208-0110
Visible Air Contaminant Limitations

(1) The emissions standards in this rule do not apply to:

(a) Fugitive emissions from a source or part of a source; or

(b) Recovery furnaces regulated under OAR chapter 340, division 234.

(2) The visible emissions standards in this rule are based on the average of 24 consecutive observations recorded at 15-second intervals, or more frequently as allowed under subsection (b), which comprise a six-minute block. Six-minute blocks need not be consecutive in time and in no case may two blocks overlap. For each set of 24 observations, the six-minute block average is calculated by summing the opacity of the 24 observations and dividing the sum by 24. Six-minute block averages are measured by:

(a) EPA Method 9;

(b) A continuous opacity monitoring system (COMS) installed and operated in accordance with the DEQ Continuous Monitoring Manual or 40 C.F.R. part 60 [NOTE: DEQ manual is published with OAR 340-200-0035]; or

(c) An alternative monitoring method approved by DEQ that is equivalent to EPA Method 9.

(3)(a) For all emissions units, no person may emit or allow to be emitted any visible emissions that equal or exceed an average of 20 percent opacity, except as allowed under

subsection (b) or (c).

(b) For wood-fired boilers installed, constructed or last modified on or after June 1, 1970 but before April 16, 2015, visible emissions may equal or exceed an average of 20 percent opacity for up to two independent six-minute blocks in any hour, as long as the average opacity during each of these two six-minute blocks is less than 40 percent;

(c) For wood-fired boilers installed, constructed or last modified prior to June 1, 1970:

(A) Visible emissions may equal or exceed an average of 20 percent opacity but may not equal or exceed 40 percent opacity, as the average of all six-minute blocks during grate cleaning operations provided the grate cleaning is performed in accordance with a grate cleaning plan approved by DEQ; or

(B) DEQ may approve, at the owner's or operator's request, a boiler specific limit greater than an average of 20 percent opacity, but not to equal or exceed an average of 40 percent opacity, based on the opacity measured during a source test that demonstrates compliance with OAR 340-228-0210(2)(d) and:

(i) Opacity must be measured for at least 60 minutes during each compliance source test run using any method included in section (2);

(ii) The boiler specific limit will be the average of at least 30 six-minute block averages obtained during the compliance source test;

(iii) The boiler-specific limit will include a higher limit for one six-minute period during any hour based on the maximum six-minute block average measured during the compliance source test;

(iv) Specific opacity limits will be included in the permit for each affected source as a minor permit modification (simple fee) for sources with an Oregon Title V Operating Permit or a Basic Technical Modification for sources with an Air Contaminant Discharge Permit; and

(v) If an alternative limit is established in accordance with this paragraph, the exception provided in paragraph (A) does not apply.

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

[NOTE: View a PDF of referenced EPA Method by clicking on "Tables" link below.]

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

Statutory/Other Authority: ORS 468.020 & 468A
Statutes/Other Implemented: ORS 468A.025 & 468A.035
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 121-2018, minor correction filed 04/11/2018, effective 04/11/2018

DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 2-2001, f. & cert. ef 2-5-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0015
DEQ 3-1996, f. & cert. ef. 1-29-96
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 16, f. 6-12-70, ef. 7-11-70

340-208-0510
Clackamas, Columbia, Multnomah, and Washington Counties: Exclusions

(1) The requirements contained in OAR 340-208-0510 through 340-208-0610 apply to all activities conducted in Clackamas, Columbia, Multnomah, and Washington Counties, except for activities for which specific industrial standards have been adopted (under OAR chapter 340, divisions 230, 234, 236, 238, and 244).

(2) The requirements outlined in OAR 340-208-0510 through 340-208-0610 do not apply to activities related to a domestic residence of four or fewer family-living units.

Statutory/Other Authority: ORS 468 & 468A
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 2-2001, f. & cert. ef. 2-5-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0410
DEQ 4-1993, f. & cert. ef. 3-10-93, Renumbered from 340-028-0003
DEQ 61, f. 12-5-73, ef. 12-25-73

340-208-0610
Clackamas, Columbia, Multnomah, and Washington Counties: Particulate Matter Weight Standards

Except for equipment burning natural gas and liquefied petroleum gas, the maximum allowable emission of particulate matter from any fuel burning equipment:

(1) Is a function of maximum heat input as determined from Figure 1, except that from:

(a) Existing fuel burning equipment installed, constructed or last modified on or before June 1, 1970, utilizing wood residue, it is 0.20 grain per standard cubic foot of exhaust, corrected to 12 percent carbon dioxide; and

(b) New fuel burning equipment installed, constructed, or modified after June 1, 1970 utilizing wood residue, it is 0.10 grain per standard cubic foot of exhaust gas, corrected to 12 percent carbon dioxide; and

(2) Must not exceed Smoke Spot #2 for distillate fuel and #4 for residual fuel, measured by ASTM D2156-65, “Standard Method for Test for Smoke Density of the Flue Gases from Distillate Fuels.”

[NOTE: View a PDF of Figure by clicking on "Tables" link below.]

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

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

Statutory/Other Authority: ORS 468 & 468A
Statutes/Other Implemented: ORS 468.020 & 468A.025
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2001, f. & cert. ef. 2-5-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0510
DEQ 3-1996, f. & cert. ef. 1-29-96
DEQ 4-1993, f. & cert. ef. 3-10-93, Renumbered from 340-028-0075
DEQ 61, f. 12-5-73, ef. 12-25-73

Division 209
PUBLIC PARTICIPATION

340-209-0080
Issuance or Denial of a Permit

(1) Following the public comment period and public hearing, if one is held, DEQ will take action upon the matter as expeditiously as possible. Before taking such action, DEQ will prepare a written response to address each relevant, distinct issue raised during the comment period and raised during the hearing on the record.

(2) DEQ will make a record of the public comments, including the names and affiliation of persons who commented, and the issues raised during the public participation process. The public comment records may be in summary form rather than a verbatim transcript. The public comment records are available to the public at the DEQ office processing the permit.

(3) The applicant may submit a written response to any comments submitted by the public within 10 working days after DEQ provides the applicant with a copy of the written comments received by DEQ. DEQ will consider the applicant's response in making a final decision.

(4) After considering the comments, DEQ may adopt or modify the provisions requested in the permit application.

(5) Issuance of permit: DEQ will promptly notify the applicant in writing of the final action as provided in OAR 340-011-0525 and will include a copy of the issued permit. If the permit conditions are different from those contained in the proposed permit, the notification will identify the affected conditions and include the reasons for the changes. The permit is effective on the date that it is signed unless the applicant requests a hearing to contest the permit within 20 days of the date of the notification of issuance of the permit.

(6) Denial of a permit application: If DEQ proposes to deny a permit application, DEQ will

promptly notify the applicant in writing of the proposed final action as provided in OAR 340-011-0525.The notification will include the reasons for the denial. The denial of a permit application is effective 60 days from the date of notification of the proposed denial unless within that time, the applicant requests a hearing as provided in section (7).

(7) A request for a hearing to challenge a DEQ decision under section (5) or (6) must be in writing and state the grounds for the request. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413 through 183.470 and OAR chapter 340, division 11.

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 183.413, 183.415, 468.065, 468A.035, 468A.040 & 468A.310
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 42, f. 4-5-72, ef. 4-15-72; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0025 & 340-014-0035; DEQ 8-2007, f. & cert. ef. 11-8-07

Division 210
STATIONARY SOURCE NOTIFICATION REQUIREMENTS

340-210-0100
Registration in General

(1) Any air contaminant source not subject to Air Contaminant Discharge Permits, OAR chapter 340, division 216, or Oregon Title V Operating Permits, OAR chapter 340, division 218, must register with DEQ upon request pursuant to OAR 340-210-0110 through 340-210-0120.

(2) The owner or operator of an air contaminant source listed in subsection (a) that is certified through a DEQ approved environmental certification program, as provided in subsection (b), and that is subject to an Area Source NESHAP may register the source with DEQ pursuant to OAR 340-210-0110 through 340-210-0120 in lieu of obtaining a permit otherwise required by OAR 340-216-0020, unless DEQ determines that the source has not complied with the requirements of the environmental certification program. A source registered under this section must pay fees as provided in subsection (c), is subject to termination of its registration for failure to pay fees as provided in subsection (d), and must keep records as provided in subsection (e).

(a) The following sources may be registered under this section:

(A) Motor vehicle surface coating operations.

(B) Dry cleaners using perchloroethylene.

(b) Approved environmental certification program. To be approved, the environmental certification program must, at a minimum, require certified sources to comply with all applicable state and federal rules and regulations and require additional measures to increase environmental protection.

(c) Fees. In order to obtain and maintain registration, owners and operators of sources registered pursuant to this section must pay the annual registration fees in OAR 340-216-8020 Table 2 by March 1 of each year.

(d) Failure to pay fees. Registration is automatically terminated upon failure to pay annual fees by March 1 of each year, unless prior arrangements for payment have been approved in writing by DEQ.

(e) Recordkeeping. In order to maintain registration, owners and operators of sources registered pursuant to this section must maintain records required by the approved environmental performance program under subsection (b). The records must be kept on site and in a form suitable and readily available for expeditious inspection and review.

(3) The owner or operator of an air contaminant source that is subject to a federal NSPS in 40 CFR part 60 or NESHAP in 40 CFR part 63 and that is not located at a source that is required to obtain a permit under OAR chapter 340, division 216 (Air Contaminant Discharge Permits) or OAR chapter 340, division 218 (Oregon Title V Operating Permits), must register and maintain registration with DEQ pursuant to OAR 340-210-0110 through 340-210-0120 if requested in writing by DEQ (or by EPA at DEQ's request).

(4) Revocation. DEQ may revoke a registration if a source fails to meet any requirement in OAR 340-210-0110.

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.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.035, 468A.050, 468A.070 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.035, 468A.050, 468A.070 & 468A.310
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
Reverted to DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2012, f. & cert. ef. 5-17-12
Reverted to DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0500

DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0005
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 15, f. 6-12-70, ef. 9-1-70

340-210-0205
Notice of Construction and Approval of Plans: Applicability and Requirements

(1) Except as provided in section (2), OAR 340-210-0205 through 340-210-0250 apply to the following:

(a) New Sources. Owners or operators of proposed new sources, not otherwise required to obtain a permit under OAR chapter 340, division 216 or 218, must submit a notice of construction application before undertaking construction or operation of a new source that emits any regulated air pollutant.

(b) Existing Sources. Owners or operators of existing sources, including sources that have permits under OAR chapter 340, division 216 or 218, must submit the appropriate application before undertaking any of the following:

(A) Construction or modification that will cause an increase, on an hourly basis at full production, in any regulated air pollutant emissions;

(B) Replacement of a device or activity that emits any regulated air pollutants; or

(C) Construction, modification, or replacement of any air pollution control device.

(2) OAR 340-210-0205 through 340-210-0250 do not apply to the following sources:

(a) Sources for which the owners or operators are required to obtain a permit under OAR chapter 340, division 216 or 218 for the construction or modification;

(b) Agricultural operations or equipment that is exempted by OAR 340-200-0030;

(c) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families;

(d) Other activities associated with residences used exclusively as dwellings for not more than four families, including, but not limited to barbecues, house painting, maintenance, and groundskeeping;

(e) Portable sources, except modifications of portable sources that have permits under OAR chapter 340, division 216 or 218 and are specified in section (1); and

(f) Categorically insignificant activities as defined in OAR 340-200-0020 unless they are subject to NESHAP or NSPS requirements. This exemption applies to all categorically insignificant activities whether or not they are located at major or non-major sources.

(3) OAR 340-210-0205 through 340-210-0250 apply to Title V sources under OAR 340-218-

0190 but are called Notices of Approval.

NOTE: This rule, with the exception of section (3), 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, 468A.025 & 468A.055
Statutes/Other Implemented: ORS 468A.025, 468A.035 & 468A.055
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 12-2008, f. & cert. ef. 9-17-08
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-210-0210
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0810
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0025
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 37, f. 2-15-72, ef. 3-1-72
DEQ 15, f. 6-12-70, ef. 9-1-70

340-210-0225
Notice of Construction and Approval of Plans: Types of Construction/Modification Changes

For the purpose of OAR 340-210-0205 through 340-210-0250, emission calculations for determining the type of change at a source must use the regulated air pollutant emission capacity, except for Type 1 changes under subsection (1)(b) and Type 4 changes. The notices of construction changes are divided into the following types:

(1) Type 1 changes include construction or modification for which the owner or operator is not required to obtain a permit or permit modification under OAR chapter 340, division 216, and where the changes meet the criteria in either subsection (a) or (b):

(a) The construction or modification would:

(A) Have emissions from any new, modified, or replaced device or activity, or any combination of devices or activities, of less than or equal to the de minimis levels defined in OAR 340-200-0020;

(B) Not result in an increase of emissions from the source above any PSEL;

(C) Not result in an increase of emissions from the source above the netting basis by more than or equal to the SER;

(D) Not be used to establish a federally enforceable limit on the potential to emit; and

(E) Not require a TACT determination under OAR 340-226-0130 or a MACT determination under OAR 340-244-0200; or

(b) The construction or modification is one of the following:

(A) Stationary internal combustion engines having a rated capacity <60 horsepower output;

(B) Emergency stationary internal combustion Tier 4 engines having a rated capacity <670 horsepower (500 kilowatts) output;

(C) Hand-held sanding equipment;

(D) Portable vacuum blasting equipment using steel shot and vented to a fabric filter;

(E) Shot peening operations, provided that no surface material is removed;

(F) Replacement of equipment that is used to control processes, such as temperature, air pressure, water pressure, electrical current, flow rate, etc.;

(G) Equipment and instrumentation used for quality control/assurance or inspection purposes;

(H) Vacuum pumps;

(I) Equipment used for extrusion, compression molding, and injection molding of plastics, provided that the VOC content of all mold release products or lubricants is <1% by weight;

(J) Injection or blow-molding equipment for rubber or plastics, provided that no blowing agent other than compressed air, water, or carbon dioxide is used;

(K) Presses or molds used for curing, post-curing, or forming composite products and plastic products, provided that the blowing agent contains no VOC or chlorinated compounds;

(L) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives;

(M) Dredging wet spoils handling and placement;

(N) Graphic label and/or box labeling operations where the inks are applied by hand stamping or hand rolling;

(O) Ultraviolet disinfection processes;

(P) The cleaning and/or deburring of metal products where all tumblers are used without abrasive blasting;

(Q) Ozone generators and ozonation equipment;

(R) Emissions from the storage and application of road salt (calcium chloride or sodium chloride);

(S) Process emissions from sources which are located at private, public, or vocational

education institutions, where the emissions are primarily the result of teaching and training exercises, and the institution is not engaged in the manufacture of products for commercial sale;

(T) Degreasing units which exclusively use caustics (e.g., potassium hydroxide and sodium hydroxide);

(U) Equipment used for hydraulic or hydrostatic testing with water-based hydraulic fluids;

(V) Storage tanks, reservoirs, pumping and handling equipment, and control equipment used to exclusively vent such equipment of any size, limited to soaps, lubricants, hydraulic fluid, vegetable oil, grease, animal fat, aqueous salt solutions or other materials and processes using appropriate lids and covers where there is no generation of objectionable odor or airborne particulate matter or toxic air pollutants listed in OAR chapter 340, division 247;

(W) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons where annual emissions are less than or equal to the de minimis levels;

(X) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids;

(Y) Ultraviolet curing processes, to the extent that toxic air contaminants as defined in OAR chapter 340, division 247 are not emitted;

(Z) Contaminant detectors, sampling devices and recorders;

(AA) Environmental chambers and humidity chambers using only gases that are not toxic air contaminants listed in OAR chapter 340, division 247;

(BB) Lithographic printing equipment which uses laser printing;

(CC) Equipment used exclusively for conveying and storage of plastic pellets that don’t break down or degrade and are only used for indoor manufacturing;

(DD) Gas cabinets using only gasses that are not regulated air pollutants;

(EE) Salt baths using nonvolatile salts and not used in operations which result in air emissions;

(FF) Paper shredding and carpet and paper shearing, fabric brushing and sueding as well as associated conveying systems, baling equipment, and control equipment venting such equipment. This exemption does not include carpet and fabric recycling operations;

(GG) Hammermills used exclusively to process aluminum and/or tin cans, and control equipment exclusively venting such equipment;

(HH) Drop hammers or hydraulic presses for forging or metal working; or

(II) Concrete application, and installation.

(2) Type 2 changes include construction or modification for which the owner or operator is not required to obtain a permit or permit modification under OAR chapter 340, division 216, and where the construction or modification would:

(a) Have emissions from any new, modified, or replaced device or activity, or any combination of devices or activities, of less than the SER defined in OAR 340-200-0020;

(b) Not result in an increase of emissions from the source above any PSEL;

(c) Not result in an increase of emissions from the source above the netting basis by more than or equal to the SER;

(d) Not be used to establish a federally enforceable limit on the potential to emit;

(e) Be used to establish a state-only enforceable limit on the potential to emit;

(f) Not require a TACT determination under OAR 340-226-0130 or a MACT determination under OAR 340-244-0200; and

(g) Not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202 for a new or replaced device or activity.

(3) Type 3 changes include construction or modification where the construction or modification would:

(a) Have emissions from any new, modified, or replaced device or activity, or any combination of devices or activities, of more than or equal to the SER defined in OAR 340-200-0020;

(b) Result in an increase of emissions from the source above any PSEL before applying unassigned emissions or emissions reduction credits available to the source but less than the SER after applying unassigned emissions or emissions reduction credits available to the source;

(c) Be used to establish a federally enforceable limit on the potential to emit;

(d) Require a TACT determination under OAR 340-226-0130 or a MACT determination under 340-244-0200; or

(e) Not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202 for a new or replaced device or activity.

(4) Type 4 changes include construction or modification subject to New Source Review under OAR chapter 340, division 224.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040 except for OAR 340-210-0225(2)(e).

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040, 468A.050, ORS 468A.055, 468A.070 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.035, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-210-0220
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0820
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0030
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 5-1989, f. 4-24-89, cert. ef. 5-1-89
DEQ 15, f. 6-12-70, ef. 9-1-70

340-210-0230
Notice of Construction and Approval of Plans: Notice to Construct Application

(1) An application for any type of change must meet the requirements of the rules that were in effect on the date the complete application was submitted.

(2) Any person proposing a Type 1 or 2 change must submit a notice of construction application using electronic forms provided by DEQ, unless otherwise approved in writing by DEQ and applicable fees in OAR 340-216-8020 to DEQ before undertaking such construction or modification. The notice of construction application must include the following information, as applicable, for present or anticipated operating conditions:

(a) Name, address, tax lot, and nature of business;

(b) Name of local person responsible for compliance with these rules;

(c) Name of person authorized to receive requests for data and information;

(d) The type of construction or modification as defined in OAR 340-210-0225;

(e) A description of the proposed construction or modification;

(f) A description of the production processes and a related flow chart for the proposed construction or modification;

(g) A plot plan showing the location and height of the proposed construction or modification, and the nearest residential and commercial properties;

(h) Production, throughput, or material usage;

(i) Type and quantity of fuels used;

(j) The amount, nature and duration of regulated pollutant emissions from the proposed construction or modification and any proposed change in emissions with supporting

calculation, except for equipment listed in OAR 340-210-0225(1)(b);

(k) Plans and specifications for air pollution control devices and facilities and their relationship to the production process, including estimated efficiency of air pollution control devices;

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

(m) A list of any requirements applicable to the construction or modification;

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

(o) Amount and method of refuse disposal;

(p) Land Use Compatibility Statement(s) when required by OAR chapter 340, division 018:

(A) Signed by the applicable local planning jurisdictions(s), determining that construction or modification is compatible with the applicable local planning jurisdiction's acknowledged comprehensive plan. If DEQ receives a LUCS which states that the proposed action is incompatible with the acknowledged comprehensive plan, DEQ shall notify the applicant that the application cannot be processed; or

(B) If the local planning jurisdiction declines to provide a LUCS determination in response to a request for a LUCS, the owner or operator must provide DEQ with its own analysis to demonstrate that the proposed action complies with all applicable statewide planning goals;

(q) Anticipated date of the commencement of construction (i.e., breaking ground); and

(r) Anticipated date of construction or modification completion.

(3) In addition, any person proposing a Type 2 or Type 3 change for a new or replaced device or activity must also submit an air quality analysis for any pollutants that are emitted above the de minimis emission level demonstrating that the emissions, including reductions due to air pollution control devices or permitted limits on production capacity, from the individual device or activity will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202.

(4) Any person proposing a Type 3 change must:

(a) Submit an application for either a new or modified Basic ACDP, a Construction ACDP, a new or modified Simple ACDP, or a new or modified Standard ACDP, whichever is appropriate; or

(b) If the owner or operator of a source assigned to a General ACDP still qualifies for the General ACDP after the Type 3 change is approved, submit the information required in OAR 340-210-0230(2).

(5) Any person proposing a Type 4 change must comply with OAR chapter 340, division 224 and must submit an application for either a Construction ACDP, or a new or modified Standard ACDP, whichever is appropriate.

(6) Additional information. If DEQ determines that additional information or corrections are needed for consideration of any type of proposed construction or modification, DEQ will provide the applicant with a written request to provide such information by a reasonable date.

(7) If DEQ determines it is not able to approve the applicant's submittal, or if the applicant does not timely provide additional information or corrections requested by DEQ under section (6), then in addition to any other remedies available, DEQ may:

(a) Return the application;

(b) Retain any applicable fees; and

(c) Issue a proposed denial of the application.

(8) A person who has submitted an application under this rule must notify DEQ of any corrections and revisions to the plans and specifications that would impact emissions upon becoming aware of the changes. If the correction or revision changes the type of Notice of Construction, the person must submit the appropriate application.

(9) Where a permit issued in accordance with OAR chapter 340, divisions 216 or 218 includes construction approval for future changes for operational flexibility, the notice requirements in this rule are waived for the approved changes.

[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, 468A.025, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.035, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
History:
DEQ 17-2020, amend filed 09/21/2020, effective 09/21/2020
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-210-0240
Notice of Construction and Approval of Plans: Construction Approval

(1) Approval to Construct:

(a) For Type 1 changes:

(A) Under OAR 230-210-0225(1)(b), the owner or operator of a source may proceed with the construction or modification immediately after notifying DEQ.

(B) Under OAR 230-210-0225(1)(a), the owner or operator of a source may proceed with the construction or modification immediately after notifying DEQ unless they request confirmation that the proposed construction or modification qualifies as a Type 1 change. DEQ has 30 calendar days from receipt of the written request, with a complete notice application, to provide written approval of the proposed construction or modification, or notify the owner or operator in writing that the proposed construction or modification does not qualify as a Type 1 change.

(b) For Type 2 changes, the owner or operator of a source may proceed with the construction or modification 60 calendar days after DEQ receives the complete notice application and fees required in OAR 340-210-0230 or on the date that DEQ approves the proposed construction or modification in writing, whichever is sooner, unless DEQ notifies the owner or operator in writing that the proposed construction or modification does not qualify as a Type 2 change.

(c) For Type 3 changes, the owner or operator of a source must obtain either:

(A) A new or modified Basic ACDP, Construction ACDP, a new or modified Simple ACDP, or a new or modified Standard ACDP, whichever is appropriate, in accordance with OAR chapter 340, division 216 before proceeding with the construction or modification; or

(B) A new Simple or Standard ACDP, whichever is appropriate, in accordance with OAR chapter 340, division 216 before proceeding with the construction or modification if the source no longer qualifies for its assigned General ACDP(s).

(d) For Type 4 changes, the owner or operator of a source must obtain either a Construction ACDP or a new or modified Standard ACDP in accordance with OAR chapter 340, division 216 before proceeding with the construction or modification.

(2) Upon DEQ approval, the owner or operator of a source must construct or modify and operate the source in accordance with the approved plans and specifications, including any corrections or revisions approved by DEQ, previously submitted in the application required under OAR 340-210-0230.

(3) Approval to construct or modify does not relieve the owner or operator of a source of the obligation of complying with applicable requirements.

(4) The owner or operator of a source that receives approval to construct or modify must commence construction within 18 months of approval, or other date approved in writing by DEQ.

(a) Construction or modification approval terminates and is invalid for the following reasons:

(A) Construction or modification is not commenced within 18 months after DEQ issues such

approval, by an alternative deadline established by DEQ under this section, or by the deadline approved by DEQ in an extension under subsection (b);

(B) Construction or modification is discontinued for a period of 18 months or more; or

(C) Construction or modification is not completed within 18 months of the anticipated date of construction completion included in the application.

(b) The owner or operator may submit a request to extend the construction or modification commencement deadline by submitting a written, detailed explanation of why the source could not commence construction or modification within the initial 18-month period. DEQ may grant, for good cause, one 18-month construction or modification approval extension.

(5) Notice of Completion. Unless otherwise specified in the Construction ACDP or approval, the owner or operator of a source must notify DEQ in writing that the construction or modification has been completed using a form furnished by DEQ. Unless otherwise specified, the notice is due 30 days after completing the construction or modification. The notice of completion must include the following:

(a) The date of completion of construction or modification;

(b) Whether the construction or modification was completed in accordance with approved plans, specifications and any corrections or revisions thereto under OAR 340-210-0230, such as but not limited to:

(A) Make, model, and identification name or number of the constructed device or activity, or any combination of devices or activities;

(B) Location of the constructed device or activity, or any combination of devices or activities;

(C) Exhaust parameters (e.g., stack height, diameter, temperature, flowrate, volume or area source dimensions); and

(c) The date the stationary source, device, activity, or air pollution control device was or will be put in operation.

(6) Order Prohibiting Construction or Modification. If at any time, DEQ determines that the proposed construction is not in accordance with applicable statutes, rules, regulations, and orders, DEQ will issue an order prohibiting the construction or modification. The order prohibiting construction or modification will be forwarded to the owner or operator of the source by certified mail.

(7) Hearing. An owner or operator of a source against whom an order prohibiting construction or modification is directed may request a contested case hearing within 20 days from the date of mailing the order. The request must be in writing, state the grounds for hearing, and be mailed to the Director of DEQ. The hearing will be conducted pursuant to the applicable provisions of ORS chapter 183 and OAR chapter 340, division 11.

[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, 468A.025, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
Statutes/Other Implemented: ORS 468A. 025, 468A.035, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
History:
DEQ 17-2020, amend filed 09/21/2020, effective 09/21/2020
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-210-0250
Notice of Construction and Approval of Plans: Approval to Operate

(1) The approval to construct does not provide approval to operate the constructed, modified, or replaced stationary source or air pollution control device unless otherwise allowed by section (2) or (3) or under the applicable ACDP (OAR chapter 340, division 216) or Oregon Title V Operating Permit programs (OAR chapter 340, division and 218).

(2) Type 1 and 2 changes:

(a) For sources that are not required to obtain a permit in accordance with OAR 340-216-0020, Type 1 and 2 changes may be operated without further approval subject to the conditions of DEQ's approval to construct provided in accordance with OAR 340-210-0240.

(A) Approval to operate does not relieve the owner of the obligation of complying with applicable requirements that may include but are not limited to the general opacity standards in OAR 340-208-0110 and general particulate matter standards in OAR 340-226-0210 and OAR 340-228-0210.

(B) If required by DEQ as a condition of the approval to construct or at any other time in accordance with OAR 340-212-0120, the owner or operator must conduct testing or monitoring to verify compliance with applicable requirements. All required testing must be performed in accordance with OAR 340-212-0140.

(C) The owner or operator must register the air contaminant source with DEQ if required as a condition of the approval to construct or at any other time in accordance with OAR 340-210-0100.

(b) For sources currently operating under an ACDP, Type 1 and 2 changes may be operated without further approval unless the ACDP specifically prohibits the operation.

(c) For sources currently operating under an Oregon Title V Operating Permit, Type 1 and 2 changes may only be operated in accordance with OAR 340-218-0190(2).

(3) Type 3 and 4 changes:

(a) For new sources, or sources that have not been required to obtain a permit, Type 3 changes require the owner or operator to obtain a Construction, Basic, General, Simple, or Standard ACDP, whichever is appropriate, before operation of the approved changes.

(b) For sources currently operating under a General ACDP, a Type 3 change may be operated under the assigned General ACDP if the source still qualifies for the General ACDP. Otherwise, the owner or operator must obtain a new Simple or Standard ACDP before operation of the approved changes.

(c) For sources currently operating under a Basic, Simple or Standard ACDP, approval to operate a Type 3 change will require the owner or operator to obtain a new or modified Basic ACDP, a new or modified Simple ACDP, or a new or modified Standard ACDP, in accordance with OAR chapter 340, division 216 before operation of the approved changes. All current ACDP terms and conditions remain in effect until the new or modified ACDP is issued.

(d) Type 4 changes require the owner or operator to obtain a new or modified Standard ACDP in accordance with OAR chapter 340, division 216 before operation of the approved changes.

(e) For sources currently operating under an Oregon Title V Operating Permit, Type 3 or 4 changes may only be operated in accordance with OAR 340-218-0190(2) unless a permit modification is required.

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, 468A.025, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
Statutes/Other Implemented: ORS 468A. 025, 468A.035, 468A.040, 468A.050, 468A.055, 468A.070 & 468A.310
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 1-2012, f. & cert. ef. 5-17-12
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

Division 214
STATIONARY SOURCE REPORTING REQUIREMENTS

340-214-0110
Reporting: Request for Information

All owners or operators of stationary sources must provide any and all information and analysis, including an air quality analysis of the source, that DEQ reasonably requires for the purpose of regulating stationary sources. DEQ will provide the source with a written request to provide such information to DEQ by a reasonable date. Such information may be required on a one-time, periodic, or continuous basis and may include, but is not limited to, information necessary to:

(1) Issue a permit and ascertain compliance or noncompliance with the permit terms and conditions;

(2) Ascertain applicability of any requirement;

(3) Ascertain compliance or noncompliance with any applicable requirement;

(4) Determine whether a source's emissions may cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202; and

(5) Incorporate monitoring, recordkeeping, reporting, and compliance certification requirements into a permit.

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 & 468A
Statutes/Other Implemented: ORS 468A.025 & 468A.050
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0300
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93

340-214-0114
Reporting: Records; Maintaining and Reporting

(1) When notified by DEQ, any person owning or operating a source within the state must keep and maintain written records of the nature, type, and amounts of emissions from such source and other information DEQ may require in order to determine whether the source is in compliance with applicable emission rules, limitations, or control measures.

(2) The records must be prepared in the form of a report and submitted to DEQ on an annual, semi-annual, or more frequent basis, as requested in writing by DEQ. Submittals must be filed at the end of the first full period after DEQ's notification to such persons owning or operating a stationary air contaminant source of these recordkeeping requirements. Unless otherwise required by rule or permit, semi-annual periods are Jan. 1 to June 30, and July 1 to Dec. 31. A more frequent basis for reporting may be required due to noncompliance or if necessary to protect human health or the environment.

(3) The required reports must be completed on forms approved by DEQ and submitted within 30 days after the end of the reporting period, unless otherwise authorized by permit.

(4) When a due date for submittal falls on a weekend or holiday, the submittal is not due until the next succeeding business day.

(5) All reports and certifications submitted to DEQ under OAR chapter 340, division 200 through division 271 must accurately reflect the monitoring, record keeping and other documentation held or performed by the owner or operator.

(6) The owner or operator of any source required to obtain a permit under OAR chapter 340, division 216 or 218 must retain records of all required monitoring data and supporting information for a period of at least five years from the date of the monitoring sample, measurement, report, or application.

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, 468A.050 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.050 & 468A.310
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-212-0160
DEQ14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1140
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0046
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 48, f. 9-20-72, cert. ef. 10-1-72
DEQ 44(Temp), f. & cert. ef. 5-5-72

340-214-0130
Reporting: Information Exempt from Disclosure

(1) Pursuant to the provisions of ORS 192.311 to 192.478, all information submitted to DEQ is subject to inspection upon request by any person unless such information is determined to be exempt from disclosure pursuant to section (2) or (3).

(2) If an owner or operator claims that any writing, as that term is defined in ORS 192.311, is confidential or otherwise exempt from disclosure, in whole or in part, the owner or operator must comply with the following procedures:

(a) The writing must be clearly marked with a request for exemption from disclosure. For a multi-page writing, each page must be so marked.

(b) The owner or operator must state the specific statutory provision under which it claims exemption from disclosure and explain why the writing meets the requirements of that provision.

(c) For writings that contain both exempt and non-exempt material, the proposed exempt material must be clearly distinguishable from the non-exempt material. If possible, the exempt material must be arranged so that it is placed on separate pages from the non-exempt material.

(3) For a writing to be considered exempt from disclosure as a “trade secret,” it must meet all

of the following criteria:

(a) The information cannot be patented;

(b) It must be known only to a limited number of individuals within a commercial concern who have made efforts to maintain the secrecy of the information;

(c) It must be information that derives actual or potential economic value from not being disclosed to other persons;

(d) It must give its users the chance to obtain a business advantage over competitors not having the information; and

(e) It must not be emissions data.

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 192.430, 468.020 & 468A.050
Statutes/Other Implemented: ORS 192.410 - 192.505, 468.020, 468A.025 & 468A.050
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0400
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93

340-214-0330
Excess Emissions and Emergency Provision: All Other Excess Emissions

(1) This rule applies to all excess emissions not addressed in OAR 340-214-0310, 340-214-0320, and 340-214-0360.

(a) The owner or operator of a large source, as defined by OAR 340-214-0010, must immediately notify DEQ of the first onset per calendar day of any excess emissions event, unless otherwise specified by a permit condition.

(b) The owner or operator of a small source, as defined by OAR 340-214-0010, need not immediately notify DEQ of excess emissions events unless otherwise required by a permit condition, written notice by DEQ, or if the excess emission is of a nature that could endanger public health.

(c) Additional reporting and recordkeeping requirements are specified in OAR 340-214-0340.

(2) During any period of excess emissions, the owner or operator of the source must immediately reduce emissions to the greatest extent practicable or cease operation of the equipment or facility until the condition causing the excess emissions has been corrected or brought under control. The owner or operator must cease operation of the equipment or facility within 8 hours of the beginning of the period of excess emissions unless:

(a) Ceasing operation could result in physical damage to the equipment or facility;

(b) Ceasing operation could cause injury to employees; or

(c) Emissions associated with shutdown and the subsequent startup will exceed those emissions resulting from continued operation.

(3) An owner or operator may request continued operations under the conditions in section (2) by submitting to DEQ a written request to continue operation along with the following information within 8 hours of the beginning of the period of excess emissions:

(a) A description or plan of how the owner or operator will minimize the excess emissions to the greatest extent practicable;

(b) A plan and timeline for returning the equipment or facility back to the applicable compliant emission limits as soon as possible; and either:

(A) Information verifying that reducing or ceasing operation could result in physical damage to the equipment or facility or injury to employees; or

(B) Calculations of emissions associated with shutdown and the subsequent startup and emissions resulting from continued operation.

(4)(a) If DEQ disapproves the request to continue operation, the owner or operator must cease operation of the equipment or facility within one hour of receiving DEQ's written disapproval (e.g., email or telephone conversation with email backup), until the condition causing the excess emissions has been corrected or brought under control.

(b) If DEQ approves the request to continue operation, the owner or operator must follow the approved plans and timeline to minimize excess emissions and return the equipment or facility back to the applicable compliant emission limits as required in DEQ's written approval (e.g., email or telephone conversation with email backup).

(c) The owner or operator must report excess emissions under OAR 340-214-0340 within 5 days of the date of the event.

(5) Notwithstanding section (2), at any time during the period of excess emissions, DEQ may require the owner or operator to cease operation of the equipment or facility.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.040 & 468A.310
History:

DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1430
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 24-1994, f. & cert. ef. 10-28-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0370
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91

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) Owners or operators of sources in any one of the categories in OAR 340-216-8010 must obtain a permit. Source categories are not listed in alphabetical order. 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 owner or operator of the source must obtain a Simple or Standard ACDP. DEQ may determine that a source is ineligible for a Basic ACDP or a General ACDP based upon the considerations in OAR 340-216-0025(7).

(a) Owners or operators of commercial and industrial sources listed in OAR 340-216-8010 Part A must obtain a Basic ACDP under 340-216-0056 unless the person chooses to obtain a General, Simple or Standard ACDP for the source. 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.

(b) Owners or operators of 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) Owners or operators of 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 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 (3)(c) or DEQ has granted an exemption from the requirement to obtain an ACDP under subsection (3)(d). No person may continue to operate an air contaminant source if the ACDP expires, or is terminated, denied, or revoked; except as provided in OAR 340-216-0082.

(a) The owner or operator must construct and operate their facility in accordance with the approved plans and specifications, including any corrections or revisions approved by DEQ, previously submitted in the application required under OAR 340-216-0040.

(b) For portable sources, a permit may be issued or assigned by:

(A) DEQ for operation in any area of the state except Lane County; or

(B) LRAPA for operation in Lane County.

(c) The owner or operator of a source required to obtain an ACDP or ACDP Attachment in order to comply with a NESHAP under OAR chapter 340, division 244 or a NSPS under OAR chapter 340, 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, subject to paragraphs (A) and (B).

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

(B) 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.

(d) 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, unless the

source may be placed onsite and operated without any other construction necessary and obtains an Oregon Title V Operating Permit prior to operation.

(5) The owner or operator of a source that has been issued an ACDP may not modify the source without first complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(6) The owner or operator of a source required to have an ACDP may not make modifications to the source that would result in the source becoming subject to the Oregon Title V Operating Permit program without complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(7) The owner or operator of a source required to have an ACDP may not increase emissions above the PSEL without first applying for and obtaining a modified ACDP.

(8) The owner or operator of a source that has been issued an ACDP may not violate any conditions included in the ACDP.

(9) 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 340-200-0040 with the exception of all references to toxic air contaminants and OAR chapter 340, division 245.

NOTE: Tables referenced are in OAR 340-216-8010 and 340-216-8020.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040, 468A.155 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.040, 468A.135 - 468A.155 & 468A.310
History:
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 126-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 14-2011, f, & cert. ef. 7-21-11
DEQ 13-2011, f. & cert. ef. 7-21-11
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11
DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 8-2007, f. & cert. ef. 11-8-07

DEQ 7-2007, f. & cert. ef. 10-18-07
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 22-1994, f. & cert. ef. 10-4-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0155
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 27-1991, f. & cert. ef. 11-29-91
DEQ 12-1987, f. & cert. ef. 6-15-87
DEQ 3-1986, f. & cert. ef. 2-12-86
DEQ 11-1983, f. & cert. ef. 5-31-83
DEQ 23-1980, f. & cert. ef. 9-26-80
DEQ 20-1979, f. & cert. ef. 6-29-79
DEQ 125, f. & cert. ef. 12-16-76
DEQ 107, f. & cert. ef. 1-6-76, Renumbered from 340-020-0033
DEQ 63, f. 12-20-73, cert. ef. 1-11-74
DEQ 47, f. 8-31-72, cert. ef. 9-15-72

340-216-0025
Types of Permits

(1) Construction ACDP:

(a) A Construction ACDP may be used for approval of Type 3 changes specified in OAR 340-210-0225 at a source subject to the ACDP permit requirements in this division.

(b) A Construction ACDP is required for Type 3 changes specified in OAR 340-210-0225 at sources subject to the Oregon Title V Operating Permit requirements.

(2) General ACDP. A General ACDP is a permit for a category of sources for which individual permits are unnecessary in order to protect the environment, as determined by DEQ. An owner or operator of a source may be assigned to a General ACDP if DEQ has issued a General ACDP for the source category and:

(a) The source meets the qualifications specified in the General ACDP;

(b) DEQ determines that the source has not had ongoing, recurring, or serious compliance problems; and

(c) DEQ determines that a General ACDP would appropriately regulate the source.

(3) Short Term Activity ACDP. A Short Term Activity ACDP is a letter permit that authorizes the activity and includes any conditions placed upon the method or methods of operation of the activity. DEQ may issue a Short Term Activity ACDP for activities included

in OAR 340-216-0054.

(4) Basic ACDP. A Basic ACDP is a permit that authorizes the regulated source to operate in conformance with the rules contained in OAR chapter 340, divisions 200 to 268.

(a) Owners and operators of sources and activities listed in Part A of OAR 340-216-8010 must at a minimum obtain a Basic ACDP.

(b) Any owner or operator of a source required to obtain a Basic ACDP may choose to obtain either a Simple or Standard ACDP.

(5) Simple ACDP.

(a) Owners and operators of sources and activities listed in OAR 340-216-8010 Part B that do not qualify for a General ACDP and are not required to obtain a Standard ACDP must, at a minimum, obtain a Simple ACDP. The owner or operator of a source required to obtain a Simple ACDP may choose to obtain a Standard ACDP.

(b) A Simple ACDP is a permit that contains:

(A) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements;

(B) PSELs at less than the SER for all regulated pollutants emitted at more than the de minimis emission level according to OAR chapter 340, division 222; and

(C) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary.

(6) Standard ACDP:

(a) Applicability.

(A) The owner or operator of a source listed in Part C of OAR 340-216-8010 must obtain a Standard ACDP;

(B) The owner or operator of a source listed in Part B of OAR 340-216-8010 that does not qualify for a General ACDP or Simple ACDP must obtain a Standard ACDP;

(C) The owner or operator of a source not required to obtain a Standard ACDP may choose to apply for a Standard ACDP.

(b) A Standard ACDP is a permit that contains:

(A) All applicable requirements, including general ACDP conditions for incorporating generally applicable requirements;

(B) PSELs for all regulated pollutants emitted at more than the de minimis emission level according to OAR chapter 340, division 222; and

(C) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary.

(7)(a) Notwithstanding the other provisions of this division that establish the eligibility of a source for different types of ACDPs, DEQ may determine, pursuant to the standards described in subsection (b), that the owner or operator of a source is ineligible for certain types of ACDP and must be issued a different type of ACDP;

(b) DEQ will make a determination about which type of ACDP that the owner or operator of source must obtain based upon the following considerations:

(A) The nature, extent, toxicity and impact on human health and the environment of the source's emissions;

(B) The complexity of the source and the rules applicable to that source;

(C) The complexity of the emission controls, potential threat to human health and the environment if the emission controls fail, and the source's capacity;

(D) The location of the source and its proximity to places where people live and work; and

(E) The compliance history of the source, including by the source's:

(i) Current corporate officers, managers, members of the board of directors, general partners or similar persons, provided that the person exercises or will exercise substantial control on behalf of or over the facility that is the subject of the application or permit;

(ii) Parent corporations, or similar business entities, that exercise substantial control over the facility that is the subject of the application or permit; and

(iii) Subsidiary corporations, or similar business entities, over which the applicant or permittee exercises substantial control.

[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.]

[NOTE: All tables are found in OAR 340-216-8010, -8020, -8030.]

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A.025, 468A.040 & 468A.310
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720

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

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 a complete application with the following general information, as applicable, in addition to any other information required for a specific permit type. Complete applications must be submitted using electronic forms provided by DEQ, unless otherwise approved in writing by DEQ:

(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 all emissions units, devices and activities that emit to the atmosphere, including any air pollution control devices, and the nearest residential and commercial properties;

(F) Make, model, and identification name or number of each device, activity, and air pollution control device, if known;

(G) Exhaust parameters (e.g., stack height, diameter, temperature, flowrate, volume or area

source dimensions) of each emissions unit, device, and air pollution control device that emits to the atmosphere;

(H) The type and quantity of fuels used;

(I) 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;

(J) 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;

(K) Estimated efficiency of air pollution control devices under present or anticipated operating conditions;

(L) 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);

(M) Land Use Compatibility Statement(s), when required by OAR chapter 340, division 018:

(i) Signed by the applicable local planning jurisdiction(s), determining that construction or modification of the source is compatible with applicable local jurisdiction's acknowledged comprehensive plan. If DEQ receives a LUCS which states that the proposed action is incompatible with the acknowledged comprehensive plan, DEQ shall notify the applicant that the application cannot be processed;

(ii) If the local planning jurisdiction declines to provide a LUCS determination in response to a request for a LUCS, the owner or operator must provide DEQ with its own analysis to demonstrate that the proposed action complies with all applicable statewide planning goals;

(N) The most recent information reported through EPA's Toxics Release Inventory program at the time of application submittal, if the source is subject to the program;

(O) An air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225, demonstrating that the emissions, including reductions due to air pollution control devices or permitted limits on production capacity, will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202;

(P) Any information required by OAR chapter 340, divisions 222, 224, 225, and 245, including but not limited to control technology and analysis and air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225; and information related to offsets and net air quality benefit, if applicable;

(Q) Anticipated date of the commencement of construction (i.e., breaking ground); and

(R) Anticipated date of construction completion; and

(S) Any other information requested by DEQ.

(b) Owners or operators must submit complete applications for new permits in accordance with the timelines provided in subsection (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 New Source Review, to allow DEQ adequate time to process the application and issue a permit before it is needed.

(2) Permit Renewals. Any person who wants to renew an existing permit must submit a complete application using forms provided by DEQ, unless otherwise allowed in writing by DEQ.

(a) The renewal application must include:

(A) All information identified in subsection (1)(a) that has changed since the last permit renewal or issuance;

(B) A complete list of all devices and activities, or any combination of devices and activities, including all air pollution control devices, and all categorically insignificant activities;

(C) 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;

(D) All changes to the source since the last permit issuance and all requirements applicable to those changes; a(E) When required by DEQ, an air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225, demonstrating that the source's emissions, including reductions due to air pollution control devices or permitted limits on production capacity, will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202.

(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 General ACDP attachments within 30 days prior to expiration of the General ACDPs or General ACDP attachments.

(3) Permit Modifications.

(a) An owner or operator applying for a modification of a Basic, Simple or Standard ACDP

must provide the information in subsection (1)(a) relevant to the requested changes to the permit and a list of any requirements applicable to those changes.

(b) DEQ recommends that applicants for permit modifications consider the timelines provided in subsection (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 New Source Review, to allow DEQ adequate time to process the application and issue a permit before it is needed.

(c) When required by DEQ, the owner or operator must submit an air quality analysis demonstrating that the emissions, including reductions due to air pollution control devices or permitted limits on production capacity, will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202.

(4) Any person 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) Permit applications must be completed in full and signed by the applicant or the applicant's legally authorized representative.

(6) When a permit application is subject to Major NSR under OAR chapter 340, division 224, a copy of the permit application, including all supplemental and supporting information, must also be submitted directly to the EPA.

(7) The name of the applicant on a permit application must be the legal name of the facility's owner, the owner's agent or the lessee responsible for the operation and maintenance of the facility. The legal name must be registered with the Oregon Secretary of State Corporations Division, unless the applicant is an individual person that is operating the facility or applying for the permit, and is not doing so under an assumed business name.

(8) All permit applications must include the appropriate fees as specified in OAR 340-216-8020 and OAR 340-216-8030.

(9) Permit 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.

(10) Within 15 days after receiving the application, DEQ will preliminarily review the application to determine the adequacy of the information submitted, and:

(a) If DEQ determines that additional information is needed, DEQ will promptly ask the applicant for the needed information and provide the applicant with a written request to provide such information by a date, not to exceed a 60-day period;

(b) An applicant may request an extension of time from a deadline established in subsection (a) by providing DEQ with a written request 15 days prior to the submittal deadline. DEQ may grant an extension based on the following criteria:

(A) The applicant has demonstrated progress in completing the submittal; and

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

(c) If DEQ determines it is not able to approve the applicant's submittal, or if the applicant does not timely provide additional information or corrections requested by DEQ under subsection (a), then in addition to any other remedies available, DEQ may issue a proposed denial of the application under OAR 340-209-0080(6);

(d) If DEQ has determined that additional information or corrections are necessary under subsection (a), and except as provided in subsection (c), DEQ will not consider the application to be complete for processing until DEQ has received the requested information; and

(e) When DEQ has determined that the information in an application is adequate for processing, DEQ will so notify the applicant in writing.

(11) If at any time while processing the permit application, DEQ determines that additional information is needed, DEQ will follow the procedures in section (10) to request such information.

(12) 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 chapter 340, division 245.

NOTE: Tables referenced are in OAR 340-216-8010 and 340-216-8020.

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11 DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0020 & 340-014-0030
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1770
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0175
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 13-1988, f. & cert. ef. 6-17-88

DEQ 20-1979, f. & cert. ef. 6-29-79
DEQ 107, f. & cert. ef. 1-6-76, Renumbered from 340-020-0033
DEQ 63, f. 12-20-73, cert. ef. 1-11-74
DEQ 47, f. 8-31-72, cert. ef. 9-15-72
DEQ 42, f. 4-5-72, cert. ef. 4-15-72

340-216-0054
Short Term Activity ACDPs

(1) Applicability. DEQ may issue a Short Term Activity ACDP for the following types of activities:

(a) Activities that do not require a Title V permit under OAR chapter 340, division 218;

(b) Unexpected or emergency activities; or

(c) Operation of a pilot or an exploratory emissions unit.

(2) Application requirements. Any person requesting a Short Term Activity ACDP must apply in writing, fully describing the proposed activities, operations, and emissions. The application must include the following:

(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) Make, model, and identification name or number of each device, activity, and air pollution control device;

(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 rates, showing calculation procedures;

(h) Land use approval;

(i) Anticipated date of the commencement of construction (i.e., breaking ground);

(j) Anticipated date of construction completion; and

(k) When required by DEQ, an air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225, demonstrating that the source's emissions will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard

adopted under OAR chapter 340, division 202.

(3) Fees. Applicants for a Short Term Activity ACDP must pay the fees in OAR 340-216-8020.

(4) Permit content:

(a) A Short Term Activity ACDP must include conditions that ensure adequate protection of property and preservation of public health, welfare, and resources.

(b) A Short Term Activity ACDP may not include a PSEL for any air contaminants discharged as a result of the permitted activity.

(c) A Short Term Activity ACDP will automatically terminate 60 days from the date of issuance. The permittee may request that the Short Term Activity ACDP be renewed one time, for an additional 60-day period by notifying DEQ in writing at least 14 days before the expiration of the Short Term Activity ACDP. If DEQ approves the renewal, no additional permit fees are required.

(5) If a Short Term Activity ACDP is issued to a permitted source, the permittee must include emissions from the short term activity when determining compliance with PSELs under OAR chapter 340, division 222 and Source Risk Limits under OAR chapter 340, division 245.

(6) Permit issuance public notice procedures. A Short Term Activity ACDP requires public notice as a Category I permit action under OAR chapter 340, division 209.

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.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
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DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0050
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 42, f. 4-5-72, ef. 4-15-72
DEQ 42, f. 4-5-72, ef. 4-15-72

340-216-0056
Basic ACDPs

(1) Application requirements. Any person requesting a Basic ACDP must submit an application according to OAR 340-216-.

(2) DEQ may determine that a source is ineligible for a Basic ACDP based upon the considerations in OAR 340-216-0025(7).

(3) Fees. Applicants for a new Basic ACDP must pay the fees in OAR 340-216-8020.

(4) Permit content:

(a) A Basic ACDP will contain only the most significant and relevant rules applicable to the source;

(b) A Basic ACDP may not contain a PSEL;

(c) A Basic ACDP may contain any physical or operational limitation, including any combination of the use of control devices, restrictions on hours of operation, or restrictions on the type or amount of materials combusted, stored, or processed, as permit conditions to limit short term emissions for all devices and activities that require controls or limitations to ensure the source's emission will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202;

(d) A Basic ACDP will require that a simplified annual report be submitted to DEQ; and

(e) A Basic ACDP may be issued for a period not to exceed ten years.

(5) Permit issuance public notice procedures. A Basic ACDP requires public notice as a Category I permit action according to OAR chapter 340, division 209.

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.

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History: DEQ 7-2015, f. & cert. ef. 4-16-15 DEQ 9-2014, f. & cert. ef. 6-26-14 DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11 DEQ 8-2007, f. & cert. ef. 11-8-07 DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-216-0060
General Air Contaminant Discharge Permits

(1) Applicability.

(a) DEQ may issue a General ACDP under the following circumstances:

(A) There are multiple sources that involve the same or substantially similar types of operations;

(B) All requirements applicable to the covered operations can be contained in a General

ACDP;

(C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP; and

(D) The regulated pollutants emitted are of the same type for all covered operations.

(E) DEQ may determine that a source is ineligible for a General ACDP based upon the considerations in OAR 340-216-0025(7).

(b) Permit content. Each General ACDP must include the following:

(A) All relevant requirements for the operations covered by the General ACDP, excluding any federal requirements not adopted by the EQC;

(B) PSELs set at the potential to emit for the largest emitting source in the source category in the state for all regulated pollutants emitted at more than the de minimis emission level according to OAR chapter 340, division 222;

(C) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the PSEL and other applicable emissions limits and standards; and

(D) A permit expiration date not to exceed 10 years from the date of issuance.

(c) Permit issuance public notice procedures: A new General ACDP requires public notice as a Category III permit action according to OAR chapter 340, division 209. A reissued General ACDP or a modification to a General ACDP requires public notice as a Category II permit action according to OAR chapter 340, division 209.

(d) DEQ will retain all General ACDPs on file and make them available for public review at DEQ's headquarters.

(2) Petition for General ACDP Categories.

Any person may file a petition with DEQ to add a category for a General ACDP. DEQ may use its discretion to determine whether to issue any such new General ACDP. The petition must include at least the following information:

(a) Justification for why a new General ACDP category should be developed;

(b) The approximate number of businesses that would be eligible for the General ACDP;

(c) Criteria for qualification to the General ACDP; and

(d) A list of the requirements applicable to the activities or sources that would be eligible for the new General ACDP.

(3) Source assignment:

(a) Application requirements. Any person requesting that a source be assigned to a General ACDP must submit a written application according to OAR 340-216-0040 that includes the information in 340-216-0040(1), specifies the General ACDP source category, and shows that the source qualifies for the General ACDP.

(b) Fees. Applicants must pay the fees in OAR 340-216-8020. The fee class for each General ACDP is Fee Class One unless otherwise specified as follows:

(A) Hard chrome platers — Fee Class Three;

(B) Decorative chrome platers — Fee Class Two;

(C) Halogenated solvent degreasers — batch cold, batch vapor, and in-line — Fee Class Two;

(D) Perchloroethylene dry cleaners — Fee Class Six;

(E) Asphalt plants — Fee Class Three;

(F) Rock crushers — Fee Class Two;

(G) Ready-mix concrete — Fee Class One;

(H) Sawmills, planing mills, millwork, plywood manufacturing and veneer drying — Fee Class Three;

(I) Boilers — Fee Class Two;

(J) Crematories — Fee Class One;

(K) Grain elevators — Fee Class One;

(L) Prepared feeds, flour, and cereal — Fee Class One;

(M) Seed cleaning — Fee Class One;

(N) Coffee roasters — Fee Class One;

(O) Bulk gasoline plants — Fee Class One;

(P) Electric power generators — Fee Class Two;

(Q) Clay ceramics — Fee Class One;

(R) Hospital sterilizers — Fee Class Four;

(S) Gasoline dispensing facilities — stage I — Fee Class Five;

(T) Gasoline dispensing facilities — stage II — Fee Class Four;

(U) Wood preserving — Fee Class Four;

(V) Metal fabrication and finishing — with two or more of the following operations — Fee Class Two;

(i) Dry abrasive blasting performed in a vented enclosure or of objects greater than 8 feet (2.4 meters) in any one dimension that uses materials that contain MFHAP or has the potential to emit MFHAP;

(ii) Spray-applied painting operation using MFHAP containing paints;

(iii) Welding operation that uses materials that contain MFHAP or has the potential to emit MFHAP and uses 2,000 pounds or more per year of MFHAP containing welding wire and rod (calculated on a rolling 12-month basis);

(W) Metal fabrication and finishing — with only one of the operations listed in subparagraphs (2)(b)(W)(i) through (iii) — Fee Class One;

(X) Metal fabrication and finishing — with none of the operations listed in subparagraphs (2)(b)(W)(i) through (iii) — Fee Class Four;

(Y) Plating and polishing — Fee Class One;

(Z) Surface coating operations — Fee Class One;

(AA) Paints and allied products manufacturing — Fee Class Two; and

(BB) Emergency generators and firewater pumps, if a permit is required – Fee Class Two.

(c) Source assignment procedures:

(A) Assignment of a source to a General ACDP is a Category I permit action and is subject to the Category I public notice requirements according to OAR chapter 340, division 209.

(B) A person is not a permittee under the General ACDP until DEQ assigns the General ACDP to the person.

(C) Assignments to General ACDPs and attachments terminate when the General ACDP or attachment expires or is modified, terminated or revoked.

(D) Once a source has been assigned to a General ACDP, if the assigned General ACDP does not cover all applicable requirements, excluding any federal requirements not adopted by the EQC, the other applicable requirements must be covered by assignment to one or more General ACDP Attachments according to OAR 340-216-0062, otherwise the owner or operator of the source must obtain a Simple or Standard ACDP.

(E) An owner or operator of a source requesting to be assigned to a General ACDP Attachment, according to OAR 340-216-0062, for a source category in a higher annual fee class than the General ACDP to which the source is currently assigned, must be reassigned to

the General ACDP for the source category in the higher annual fee class.

(4) DEQ Initiated Modification. If DEQ determines that the conditions have changed such that a General ACDP for a category needs to be modified, DEQ may issue a modified General ACDP for that category and assign all existing General ACDP permit holders to the modified General ACDP.

(5) Rescission. DEQ may rescind a permittee's assignment to a General ACDP if the permittee's source no longer meets the requirements or qualification conditions of the permit. In such case, the permittee must submit an application within 60 days for a Simple or Standard ACDP upon notification by DEQ of DEQ's intent to rescind the General ACDP. Upon issuance of the Simple or Standard ACDP, or if the permittee fails to submit an application for a Simple or Standard ACDP, DEQ will rescind the permittee's assignment to the General ACDP.

[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.]

[NOTE: All tables are found in OAR 340-216-8010, -8020, -8030.]

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 128-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 10-2001, f. & cert. ef. 8-30-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1725
DEQ 14-1998, f. & cert. ef. 9-14-98

340-216-0064
Simple ACDP

(1) Application Requirements. Any person requesting a new, modified, or renewed Simple ACDP must submit an application according to OAR 340-216-0040.

(2) DEQ may determine that a source is ineligible for a Simple ACDP based upon the

considerations in OAR 340-216-0025(7).

(3) Fees. Applicants for a new or modified Simple ACDP must pay the fees in OAR 340-216-8020. Applicants for a new Simple ACDP must initially pay the High Annual Fee. Once the initial permit is issued, annual fees for Simple ACDPs will be assessed based on the following:

(a) Low Fee — A source may qualify for the low fee if:

(A) The source is, or will be, permitted under only one of the following categories in OAR 340-216-8010 Part B:

(i) Category 7. Asphalt felt and coatings;

(ii) Category 13. Boilers and other fuel burning equipment (can be combined with category 27. Electric power generation);

(iii) Category 27. Electric power generation;

(iv) Category 33. Galvanizing & pipe coating;

(v) Category 39. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr. metal charged (not elsewhere identified);

(vi) Category 40. Gypsum products;

(vii) Category 45. Liquid storage tanks subject to OAR chapter 340, division 232;

(viii) Category 56. Non-ferrous metal foundries 100 or more tons/year of metal charged;

(ix) Category 57. Organic or inorganic industrial chemical manufacturing;

(x) Category 62. Perchloroethylene dry cleaning;

(xi) Category 73. Secondary smelting and/or refining of ferrous and non-ferrous metals; or

(xii) Category 85. All other sources not listed in OAR 340-216-8010 (can be combined with category 27. Electric Power Generation); and

(B) The actual emissions from the calendar year immediately preceding the invoice date are less than five tons/year of PM10 in a PM10 nonattainment or maintenance area or PM2.5 in a PM2.5 nonattainment or maintenance area, and less than 10 tons/year for each criteria pollutant; and

(C) The source is not creating a nuisance under OAR 340-208-0310 or 340-208-0450.

(b) High Fee — Any source required to have a Simple ACDP (OAR 340-216-8010 Part B) that does not qualify for the low fee under subsection (2)(a) will be assessed the high fee.

(c) If DEQ determines that a source was invoiced for the low annual fee but does not meet the low fee criteria outlined above, the source will be required to pay the difference between the low and high fees, plus applicable late fees in OAR 340-216-8020 Part 5. In the case of late fees, DEQ will issue a new invoice specifying applicable fees.

(4) Permit Content. Each Simple ACDP must include the following:

(a) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements, but excluding any federal requirements not adopted by the EQC;

(b) PSELs at less than the SER for all regulated pollutants emitted at more than the de minimis emission level under OAR chapter 340, division 222;

(c) To ensure the source's emission will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202:

(A) Any physical or operational limitation, including any combination of the use of control devices, restrictions on hours of operation, or restrictions on the type or amount of materials combusted, stored, or processed, will be included as permit conditions to limit short term emissions for all devices and activities that require controls or limitations; or

(B) A requirement to conduct ambient monitoring to confirm a new exceedance of a National Ambient Air Quality Standard. Ambient monitoring and meteorological monitoring must be conducted in accordance with a DEQ approved monitoring plan for a period of not less than 12 months. There must be at least 12 months of valid data with greater than 75 percent data completeness per quarter.

(d) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and

(e) A permit duration not to exceed 10 years.

(5) Permit issuance public notice procedures:

(a) Issuance of a new or renewed Simple ACDP requires public notice as a Category III permit according to OAR chapter 340, division 209.

(b) Issuance of a modification to a Simple ACDP requires one of the following procedures, as applicable:

(A) Public notice as a Category I permit action for non-technical and basic and simple technical modifications according to OAR chapter 340, division 209; or

(B) Public notice as a Category III permit action for moderate and complex technical modifications according to OAR chapter 340, division 209.

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.

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
Reverted to DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-216-0066 Standard ACDPs

(1) Application requirements. Any person requesting a new, modified, or renewed Standard ACDP must submit an application according to OAR 340-216-0040 and include the following additional information as applicable:

(a) New or modified Standard ACDPs that are not subject to Major NSR, but have emissions increases above the significant emissions rate are subject to the requirements of State NSR. The application must include an analysis of the air quality and, for federal major sources only, the visibility impacts of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts.

(b) For new or modified Standard ACDPs that are subject to Major NSR, the application must include the following information as applicable:

(A) A detailed description of the air pollution control devices and emission reductions processes that are planned for the major source or major modification, and any other information necessary to determine that BACT or LAER technology, whichever is applicable, would be applied;

(B) An analysis of the air quality and, for federal major sources only, the visibility impacts of the major source or major modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

(C) An analysis of the air quality and, for federal major sources only, the visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, which has occurred since the baseline concentration year in the area the major source or major modification would affect.

(2) Fees. Applicants for a Standard ACDP must pay the fees in OAR 340-216-8020.

(3) Permit content. Each Standard ACDP must include the following:

(a) All applicable requirements, including general ACDP conditions for incorporating generally applicable requirements, but excluding any federal requirements not adopted by the EQC;

(b) PSELs for all regulated pollutants emitted at more than the de minimis emission level under OAR chapter 340, division 222;

(c) To ensure the source's emission will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202:

(A) Any physical or operational limitation, including any combination of the use of control devices, restrictions on hours of operation, or restrictions on the type or amount of materials combusted, stored, or processed, will be included as permit conditions to limit short term emissions for all devices and activities that require controls or limitations; or

(B) A requirement to conduct ambient monitoring to confirm a new exceedance of a National Ambient Air Quality Standard. Ambient monitoring and meteorological monitoring must be conducted in accordance with a DEQ approved monitoring plan for a period of not less than 12 months. There must be at least 12 months of valid data with greater than 75 percent data completeness per quarter.

(d) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and

(e)(A) A permit duration not to exceed 5 years, for all permits except as allowed under paragraph (B); or

(B) For a Standard ACDP that is issued solely to implement the requirements of OAR chapter 340, division 224 for New Source Review for a Title V source, there is no expiration date. This permit is only required to be modified if any of the New Source Review permit conditions must be modified. The owner or operator does not have to pay annual fees for this permit but must pay the applicable specific activity fees for any permit modification.

(4) Permit issuance procedures.

(a) Issuance of a new or renewed Standard ACDP requires public notice under OAR chapter 340, division 209 as follows:

(A) Public notice as a Category III permit action for permit actions that will increase allowed emissions but that are not Major NSR or Type A State NSR permit actions under OAR chapter 340, division 224, or as a Category II permit action if the permit will not increase allowed emissions;

(B) Public notice as a Category IV permit action for permit actions that are Major NSR or

Type A State NSR permit actions under OAR chapter 340, division 224;

(b) Issuance of a modified Standard ACDP requires public notice under OAR chapter 340, division 209 as follows:

(A) Public notice as a Category I permit action for non-technical modifications and basic and simple technical modifications according to OAR chapter 340, division 209;

(B) Public notice as a Category II permit action for moderate and complex technical modifications if there will be no increase in allowed emissions, or as a Category III permit action if there will be an increase in emissions; or

(C) Public notice as a Category IV permit action for major modifications subject to Major NSR or Type A State NSR under OAR chapter 340, division 224.

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.

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 129-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-216-0068
Simple and Standard ACDP Attachments

(1) Purpose. This rule allows DEQ to add new requirements to existing Simple or Standard ACDPs by assigning the source to an ACDP Attachment issued under section (2). An ACDP Attachment would apply to an affected source until the new requirements are incorporated into the source's Simple or Standard ACDP at the next permit renewal or at the time of permit modification.

(2) ACDP Attachment issuance procedures:

(a) An ACDP Attachment issuance requires public notice as a Category II permit action under OAR chapter 340, division 209. Assigning ACDP Attachments to Simple or Standard ACDPs require notice as Category I permit actions.

(b) DEQ may issue an ACDP Attachment when there are multiple sources that are subject to the new requirements.

(c) Attachment content. Each ACDP Attachment must include the following:

(A) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the applicable emissions limits and standards; and

(B) An attachment expiration date not to exceed 5 years from the date of issuance.

(3) Assignment to ACDP Attachment:

(a) A source is not a permittee under the ACDP Attachment until DEQ assigns the ACDP Attachment to the source.

(b) The ACDP Attachment is removed from the Simple or Standards ACDP when the requirements of the ACDP Attachment are incorporated into the source's Simple or Standard ACDP at the time of renewal or of a modification.

(c) If an EPA or DEQ action causes a source to be subject to the requirements in an ACDP Attachment, assignment to the ACDP Attachment is a DEQ initiated modification to the Simple or Standard ACDP and the permittee is not required to submit an application or pay fees for the permit action. In such case, DEQ would notify the permittee of the proposed permitting action and the permittee may object to the permit action if the permittee demonstrates that the source is not subject to the requirements of the ACDP Attachment.

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 4-2013, f. & cert. ef. 3-27-13

340-216-0082
Expiration, Termination, Reinstatement or Revocation of an ACDP

(1) Expiration.

(a) A source may not be operated after the expiration date of a permit, unless any of the following occur prior to the expiration date of the permit:

(A) A timely and complete application for renewal or reassignment has been submitted; or

(B) Another type of permit, ACDP or Oregon Title V Operating Permit, has been applied for or issued authorizing operation of the source.

(b) If a timely and complete renewal or reassignment application has been submitted, the existing permit will remain in effect until final action has been taken on the renewal

application to issue or deny a permit.

(c) For a source operating under an ACDP or Oregon Title V Operating Permit, a requirement established in an earlier ACDP remains in effect notwithstanding expiration of the ACDP, unless the provision expires by its terms or unless the provision is modified or terminated according to the procedures used to establish the requirement initially.

(2) Termination. Except as provided in section (3), a source may not be operated after the termination of a permit. A permit terminates upon:

(a) Issuance of a renewal, reassigned ACDP or a new ACDP for the same activity or operation;

(b) Written request by the permittee to DEQ requesting termination. If DEQ determines that a permit is no longer needed, DEQ will confirm termination in writing to the permittee;

(c) Failure to submit a timely and complete application for permit renewal or reassignment as required in OAR 340-216-0040. Termination is effective on the permit expiration date;

(d) Failure to pay annual fees within 90 days of the invoice due date as issued by DEQ, unless prior arrangements for a payment plan have been approved in writing by DEQ.

(3) Termination of construction approval.

(a) Construction approval issued by DEQ under this division terminates and is invalid for the following reasons:

(A) Construction is not commenced within 18 months after DEQ issues such approval, by an alternative deadline established by DEQ under this section, or by the deadline approved by DEQ in an extension under subsection (b);

(B) Construction is discontinued for a period of 18 months or more; or

(C) Construction is not completed within 18 months of the anticipated date of construction completion included in the application.

(b) The owner or operator of a source for which construction approval has been terminated under subsection (a) may submit a request to extend the construction commencement deadline by submitting a written, detailed explanation of why the source could not commence construction within the initial 18-month period. DEQ may grant for good cause one 18-month construction approval extension.

(4) Reinstatement of Terminated Permit.

(a) A permit subject to termination under subsection (2)(c) may only be reinstated if, not later than 30 days after the permit expiration date, the permittee submits a complete renewal application and pays a late application fee equivalent to the initial new permitting application fee that would apply if the source was a new source, in which case the existing, expired

permit will be reinstated effective as of the permit expiration date and will remain in effect until final action has been taken on the renewal application to issue or deny a permit;

(b) A permit terminated under subsection (2)(d) may only be reinstated if, not later than 90 days after termination, the permittee pays all unpaid annual fees and applicable late fees in which case the existing permit will be reinstated effective on the date of termination; and

(c) A terminated permit may only be reinstated as provided in subsections (a) and (b). If neither subsection (a) or (b) apply, the former permittee of a terminated permit who wishes to obtain an ACDP must submit a complete application for a new permit, including paying applicable new source permit application fees and any unpaid annual fees and late fees that were due under the terminated permit. Until DEQ issues or reassigns a new permit, the source may not operate.

(5) Revocation:

(a) If DEQ determines that a permittee is in noncompliance with the terms of the permit, submitted false information in the application or other required documentation, or is in violation of any applicable rule or statute, DEQ may revoke the permit. DEQ will provide notice of the intent to revoke the permit to the permittee under OAR 340-011-0525. The notice will include the reasons why the permit will be revoked, and include an opportunity for the permittee to request a contested case hearing prior to the revocation. A permittee's written request for hearing must be received by DEQ within 60 days from service of the notice on the permittee, and must state the grounds of the request. The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and OAR chapter 340, division 011. The permit will continue in effect until the 60th day after service of the notice on the permittee, if the permittee does not timely request a hearing, or until a final order is issued if the permittee timely requests a hearing.

(b) If DEQ finds there is a serious danger to the public health, safety or the environment caused by a permittee's activities, DEQ may immediately revoke or refuse to renew the permit without prior notice or opportunity for a hearing. If no advance notice is provided, notification will be provided to the permittee as soon as possible under OAR 340-011-0525. The notification will set forth the specific reasons for the revocation or refusal to renew and will provide an opportunity for the permittee to request a contested case hearing for review of the revocation or refusal to renew. A permittee's written request for hearing must be received by DEQ within 90 days of service of the notice on the permittee and must state the grounds for the request. The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and OAR chapter 340, division 011. The revocation or refusal to renew becomes final without further action by DEQ if a request for a hearing is not received within the 90 days. If a request for a hearing is timely received, the revocation or refusal to renew will remain in place until issuance of a final order.

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.025, 468A.040, 468A.310 &

468A.315
Statutes/Other Implemented: ORS 183.468 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0015 & 340-014-0045
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 21-1990, f. & cert. ef. 7-6-90
DEQ 125, f. & cert. ef. 12-16-76
DEQ 42, f. 4-5-72, cert. ef. 4-15-72

340-216-0084
Department Initiated Modification

(1) If DEQ determines it is appropriate to modify an ACDP, other than a General ACDP, DEQ will notify the permittee by regular, registered or certified mail of the modification and will include the proposed modification and the reasons for the modification, following the permit issuance procedures in OAR 340-216-0056(5) for Basic ACDPs, OAR 340-216-0064(5) for Simple ACDPs, and OAR 340-216-0066(4) for Standard ACDPs.

(2) The modification will become effective upon mailing unless the permittee requests a contested case hearing within 20 days. A request for hearing must be made in writing and must include the grounds for the request. The hearing will be conducted as a contested case hearing under ORS 183.413 through 183.470 and OAR 340 division 011. If a hearing is requested, the existing permit will remain in effect until after a final order is issued following the hearing.

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 183 & 468A
History:
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DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0040
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 42, f. 4-5-72, ef. 4-15-72

340-216-8010
Table 1 — Activities and Sources

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

[NOTE: For the history of these tables prior to 2014 see the history under OAR 340-216-0020]

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

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 59-2017, minor correction filed 12/20/2017, effective 12/20/2017
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 12-2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15
DEQ 9-2014, f. & cert. ef. 6-26-14

OAR 340-216-8010

Table 1

Activities and Sources

The following source categories must obtain a permit as required by OAR 340-216-0020 Applicability and Jurisdiction.

Part A: Basic ACDP

1 Autobody repair or painting shops painting more than 25 automobiles in a year and that are located inside the Portland AQMA.

2 Concrete manufacturing including redi-mix and CTB, both stationary and portable, more than 5,000 but less than 25,000 cubic yards per year output.

3 Crematory incinerators with less than 20 tons/year material input.

4 Individual natural gas or propane-fired boilers with heat input rating between 9.9 and 29.9 MMBTU/hour, constructed after June 9, 1989, that do not use more than 9,999 gallons per year of #2 diesel oil as a backup fuel.

5 Prepared feeds for animals and fowl and associated grain elevators more than 1,000 tons/year but less than 10,000 tons per year throughput.

6 Rock, concrete or asphalt crushing, both stationary and portable, more than 5,000 tons/year but less than 25,000 tons/year crushed.

7 Surface coating operations whose actual or expected usage of coating materials is greater than 250 gallons per month but does not exceed 3,500 gallons per year, excluding sources that exclusively use non-VOC and non-HAP containing coatings, e.g., powder coating operations.

8 Sources subject to permitting under Part B of this table, number 85 if all of the following criteria are met:

a. The source is not subject to any category listed on this table other than Part B number 85;
b. The source has requested an enforceable limit on their actual emissions, if the source were to operate uncontrolled, to below Part B number 85 of this table as applicable depending on the source's location through one or both of the following:
    i. A limit on hours of operation;
    ii. A limit on production;
c. Control devices are not required to be used or otherwise accounted for to maintain emissions levels compliant with 8.b above;
d. The source is not subject to and does not have any affected emissions units subject to a 40 C.F.R. part 60, part 61, or part 63 standard (NSPS or NESHAP);
e. The source is not subject to any specific industry or operation standard in OAR chapter 340, divisions 232, 234, or 236.
f. DEQ has determined that the source is not required to conduct source testing and source testing for emission factor verification will not be required.

Part B: General, Simple or Standard ACDP

1 Aerospace or aerospace parts manufacturing subject to RACT under OAR chapter 340, division 232.

2 Aluminum, copper, and other nonferrous foundries subject to an area source NESHAP under OAR chapter 340, division 244.

3 Aluminum production – primary.

4 Ammonia manufacturing.

5 Animal rendering and animal reduction facilities.

6 Asphalt blowing plants.

7 Asphalt felts or coating manufacturing.

8 Asphaltic concrete paving plants, both stationary and portable.

9 Bakeries, commercial over 10 tons of VOC emissions per year.

10 Battery separator manufacturing.

11 Lead-acid battery manufacturing and re-manufacturing.

12 Beet sugar manufacturing.

13 Oil-fired boilers and other fuel burning equipment whose total heat input rating at the source is over 10 MMBTU/hour; or individual natural gas, propane, or butane-fired boilers and other fuel burning equipment 30 MMBTU/hour or greater heat input rating.

14 Building paper and building board mills.

15 Calcium carbide manufacturing.

16 Can or drum coating subject to RACT under OAR chapter 340, division 232.[2]

17 Cement manufacturing.

18 Cereal preparations and associated grain elevators 10,000 or more tons/year throughput.[1]

19 Charcoal manufacturing.

20 Chlorine and alkali manufacturing.

21 Chrome plating and anodizing subject to a NESHAP under OAR chapter 340, division

244.

22 Clay ceramics manufacturing subject to an area source NESHAP under OAR chapter 340, division 244.

23 Coffee roasting, roasting 30 or more green tons per year.

24 Concrete manufacturing including redi-mix and CTB, both stationary and portable, 25,000 or more cubic yards per year output.

25 Crematory incinerators 20 or more tons/year material input.

26 Degreasing operations, halogenated solvent cleanings subject to a NESHAP under OAR chapter 340, division 244.

27 Electrical power generation from combustion, excluding units used exclusively as emergency generators and units less than 500 kW.

28 Commercial ethylene oxide sterilization, excluding facilities using less than 1 ton of ethylene oxide within all consecutive 12-month periods after December 6, 1996.

29 Ferroalloy production facilities subject to an area source NESHAP under OAR chapter 340, division 244.

30 Flatwood coating subject to RACT under OAR chapter 340, division 232.[2]

31 Flexographic or rotogravure printing subject to RACT under OAR chapter 340, division 232.[2]

32 Flour, blended and/or prepared and associated grain elevators 10,000 or more tons/year throughput.[1]

33 Galvanizing and pipe coating, except galvanizing operations that use less than 100 tons of zinc/year.

34 Bulk gasoline plants, bulk gasoline terminals, and pipeline facilities.

35 Gasoline dispensing facilities, excluding gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline per month[3].

36 Glass and glass container manufacturing subject to a NSPS under OAR chapter 340, division 238 or a NESHAP under OAR chapter 340, division 244.

37 Grain elevators used for intermediate storage 10,000 or more tons/year throughput.[1]

38 Reserved.

39 Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/year metal charged, not elsewhere identified.

40 Gypsum products manufacturing.

41 Hardboard manufacturing, including fiberboard.

42 Hospital sterilization operations subject to an area source NESHAP under OAR chapter 340, division 244.

43 Incinerators with two or more tons per day capacity.

44 Lime manufacturing.

45 Liquid storage tanks subject to RACT under OAR chapter 340, division 232.[2]

46 Magnetic tape manufacturing.

47 Manufactured home, mobile home and recreational vehicle manufacturing.

48 Marine vessel petroleum loading and unloading subject to RACT under OAR chapter 340, division 232.

49 Metal fabrication and finishing operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding facilities that meet all the following:

a. Do not perform any of the operations listed in OAR 340-216-0060(3)(b)(V)(i) through (iii);

b. Do not perform shielded metal arc welding (SMAW) using metal fabrication and finishing hazardous air pollutant (MFHAP) containing wire or rod; and

c. Use less than 100 pounds of MFHAP containing welding wire and rod per year.

50 Millwork manufacturing, including kitchen cabinets and structural wood members, 25,000 or more board feet/maximum 8 hour input.

51 Molded plastic container manufacturing, using extrusion, molding, lamination, and foam processing and molded fiberglass container manufacturing, excluding injection molding.

52 Motor coach, travel trailer, and camper manufacturing.

53 Motor vehicle and mobile equipment surface coating operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding motor vehicle surface coating operations painting less than 10 vehicles per year or using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, mobile equipment surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, and motor vehicle

surface coating operations registered pursuant to OAR 340-210-0100(2).

54 Natural gas and oil production and processing and associated fuel burning equipment.

55 Nitric acid manufacturing.

56 Nonferrous metal foundries 100 or more tons/year of metal charged.

57 Organic or inorganic chemical manufacturing and distribution with ½ or more tons per year emissions of any one criteria pollutant, sources in this category with less than ½ ton/year of each criteria pollutant are not required to have an ACDP.

58 Paint and allied products manufacturing subject to an area source NESHAP under OAR chapter 340, division 244.

59 Paint stripping and miscellaneous surface coating operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding paint stripping and miscellaneous surface coating operations using less than 20 gallons of coating and also using less than 20 gallons of methylene chloride containing paint stripper per year.

60 Paper or other substrate coating subject to RACT under OAR chapter 340, division 232.[2]

61 Particleboard manufacturing, including strandboard, flakeboard, and waferboard.

62 Perchloroethylene dry cleaning operations subject to an area source NESHAP under OAR chapter 340, division 244, excluding perchloroethylene dry cleaning operations registered pursuant to OAR 340-210-0100(2).

63 Pesticide manufacturing 5,000 or more tons/year annual production.

64 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.

65 Plating and polishing operations subject to an area source NESHAP under OAR chapter 340, division 244.

66 Plywood manufacturing and/or veneer drying.

67 Prepared feeds manufacturing for animals and fowl and associated grain elevators 10,000 or more tons per year throughput.

68 Primary smelting and/or refining of ferrous and non-ferrous metals.

69 Pulp, paper and paperboard mills.

70 Rock, concrete or asphalt crushing, both stationary and portable, 25,000 or more tons/year crushed.

71 Sawmills and/or planing mills 25,000 or more board feet/maximum 8 hour finished product.

72 Secondary nonferrous metals processing subject to an Area Source NESHAP under OAR chapter 340, division 244.

73 Secondary smelting and/or refining of ferrous and nonferrous metals.

74 Seed cleaning and associated grain elevators 5,000 or more tons/year throughput.[1]

75 Sewage treatment facilities employing internal combustion engines for digester gasses.

76 Soil remediation facilities, both stationary and portable.

77 Steel works, rolling and finishing mills.

78 Surface coating in manufacturing subject to RACT under OAR chapter 340, division 232.[2]

79 Surface coating operations with actual emissions of VOCs, if the source were to operate uncontrolled, of 10 or more tons/year.

80 Synthetic resin manufacturing.

81 Tire manufacturing.

82 Wood furniture and fixtures 25,000 or more board feet/maximum 8 hour input.

83 Wood preserving (excluding waterborne).

84 All other sources, both stationary and portable, not listed herein that DEQ determines an air quality concern exists or one which would emit significant malodorous emissions.

85 All other sources, both stationary and portable, not listed herein which would have the capacity of 5 or more tons per year of direct PM2.5 or PM10 if located in a PM2.5 or PM10 nonattainment or maintenance area, or 10 or more tons per year of any single criteria pollutant .[4]

86 Chemical manufacturing facilities subject to 40 C.F.R. part 63 subpart VVVVVV.

87 Stationary internal combustion engines if:

a. For emergency generators and firewater pumps, the aggregate engine horsepower rating is greater than 30,000 horsepower; or

b. For any individual non-emergency or non-fire pump engine, the engine is subject to 40 CFR part 63, subpart ZZZZ and is rated at 500 horsepower or more, excluding two stroke lean burn engines, engines burning exclusively landfill or digester gas, and four stroke engines located in remote areas; or

c. For any individual non-emergency engine, the engine is subject to 40 CFR part 60, subpart IIII and:

A. The engine has a displacement of 30 liters or more per cylinder; or

B. The engine has a displacement of less than 30 liters per cylinder and is rated at 500 horsepower or more and the engine and control device are either not certified by the manufacturer to meet the NSPS or not operated and maintained according to the manufacturer's emission-related instructions; or

d. For any individual non-emergency engine, the engine is subject to 40 CFR part 60, subpart JJJJ and is rated at 500 horsepower or more and the engine and control device are either not certified by the manufacturer to meet the NSPS or not operated and maintained according to the manufacturer's emission-related instructions.

88 All sources subject to RACT under OAR chapter 340, division 232, BACT or LAER under OAR chapter 340, division 224, a NESHAP under OAR chapter 340, division 244, a NSPS under OAR chapter 340, division 238, or State MACT under OAR 340-244-0200(2), except sources:

a. Exempted in any of the categories above;

b. For which a Basic ACDP is available; or

c. Registered pursuant to OAR 340-210-0100(2).

89 Pathological waste incinerators.

90 Landfills with more than 200,000 tons of waste in place and calculated methane generation rate is less than 664 metric tons per year which are subject to the requirements in OAR 340 division 239.

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1 Applies only to Special Control Areas

2 Portland AQMA, Medford-Ashland AQMA or Salem-Keizer in the SKATS only

3 "monthly throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during a month. Monthly throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during the month, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during the previous 11 months, and then dividing that sum by 12

4 A source subject to permitting from this category may be able to obtain a Basic ACDP under Part A number 8 of this table. For sources that meet the criteria of Part A number 8 of this table, the enforceable production or hours limitation in an issued ACDP may be used to demonstrate a permit is not required by Part B number 85 of this table irrespective of the term 'uncontrolled'.

Part C: Standard ACDP

1 Incinerators for PCBs, other hazardous wastes, or both.

2 All sources that DEQ determines have emissions that constitute a nuisance.

3 All sources electing to maintain the source's netting basis.

4 All sources that request a PSEL equal to or greater than the SER for a regulated pollutant.

5 All sources having the potential to emit 100 tons or more of any regulated pollutant, except GHG, in a year.

6 All sources having the potential to emit 10 tons or more of a single hazardous air pollutant in a year.

7 All sources having the potential to emit 25 tons or more of all hazardous air pollutants combined in a year.

8 Landfills with more than 200,000 tons of waste in place and calculated methane generation rate is greater than or equal to 664 metric tons per year which are subject to the requirements in OAR 340 division 239.

NOTE: For the history of these tables prior to 2014 see the history under OAR 340-216-0020. This history is also shown below:
DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 14-2011, f, & cert. ef. 7-21-11
DEQ 13-2011, f. & cert. ef. 7-21-11
DEQ 11-2011, f. & cert. ef. 7-21-11
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 12-2010, f. & cert. ef. 10-27-10
DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11
DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 7-2007, f. & cert. ef. 10-18-07
DEQ 4-2002, f. & cert. ef. 3-14-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 22-1995, f. & cert. ef. 10-6-95

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

340-216-8020
Table 2 — Air Contaminant Discharge Permits

(1) Sources referred to in Table 1 of OAR 340-216-8010 are subject to air contaminant discharge permit fees in Table 2. Title V sources may be subject to the Cleaner Air Oregon annual fees and the specific activity permit fees in Table 2, if applicable.

(2) Requests for waiver of fees must be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship. The Director may waive part or all of a fee.

[NOTE: For the history of these tables prior to 2014 see the history under OAR 340-216-0020.]

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

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 15-2019, amend filed 06/25/2019, effective 06/25/2019
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 60-2017, minor correction filed 12/20/2017, effective 12/20/2017
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 9-2014, f. & cert. ef. 6-26-14

OAR 340-216-8020
Table 2
Air Contaminant Discharge Permits

Part 1. Initial Permitting Application Fees: (in addition to first annual fee)		
Short Term Activity ACDP		$4,500.00
Basic ACDP		$180.00
Assignment to General ACDP [1]		$1,800.00
Simple ACDP		$9,000.00
Construction ACDP		$14,400.00
Standard ACDP		$18,000.00
Standard ACDP (Major NSR or Type A State NSR)		$63,000.00
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 12/1[1] for 1/1 to 12/31 of the following year) (applicable July 1, 2022)		
Registration – Motor vehicle surface coating operations		$288.00
Registration - Dry cleaners using perchloroethylene		$216.00
Short Term Activity ACDP		$0
Basic ACDP	(A) #1-7 OAR 340-216-8010 Table 1 Part A	$648.00
	(B) #8 OAR 340-216-8010 Table 1 Part A	$1,469.00
General ACDP	(A) Fee Class One	$1,469.00
	(B) Fee Class Two	$2,644.00
	(C) Fee Class Three	$3,818.00
	(D) Fee Class Four	$734.00
	(E) Fee Class Five	$245.00
	(F) Fee Class Six	$490.00
Simple ACDP	(A) Low Fee	$3,917.00

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Table 2
Air Contaminant Discharge Permits

	(B) High Fee	$7,834.00
Standard ACDP		$15,759.00
Greenhouse Gas Reporting, as required by OAR chapter 340, Division 215		7.31% of the applicable ACDP annual fee in Part 2
Part 3. Cleaner Air Oregon Annual Fees: (Due date 12/1[1] for 1/1 to 12/31 of the following year)		
Basic ACDP	(A) #1-7 OAR 340-216-8010 Table 1 Part A	$151.00
	(B) #8 OAR 340-216-8010 Table 1 Part A	$302.00
General ACDP	(A) Fee Class One	$302.00
	(B) Fee Class Two	$544.00
	(C) Fee Class Three	$786.00
	(D) Fee Class Four	$151.00
	(E) Fee Class Five	$50.00
	(F) Fee Class Six	$100.00
Simple ACDP	(A) Low Fee	$806.00
	(B) High Fee	$1,612.00
Standard ACDP		$3,225.00
1. DEQ may extend the payment due date for dry cleaners or gasoline dispensing facilities until March 1st.		
Part 4. Specific Activity Fees:		
Notice of Intent to Construct Type 2[1]		$720.00
Permit Modification	(A) Non-Technical	$432.00
	(B) Basic Technical	$540.00

OAR 340-216-8020
Table 2
Air Contaminant Discharge Permits

	(C) Simple Technical	$1,800.00
	(D) Moderate Technical	$9,000.00
	(E) Complex Technical	$18,000.00
Toxic Air Contaminant Permit Addendum Modification	(A) Non-Technical	$432.00
	(B) Basic Technical	$432.00
	(C) Simple Technical	$1,440.00
	(D) Moderate Technical	$7,200.00
	(E) Complex Technical	$14,440.00
Major NSR or Type A State NSR Permit Modification		$63,000.00
Modeling Review (outside Major NSR or Type A State NSR)		$9,000.00
Public Hearing at Source's Request		$3,600.00
State MACT Determination		$9,000.00
Compliance Order Monitoring [2]		$180.00/month
Part 5. Late Fees:		
8-30 days late		5%
31-60 days late		10%
61 or more days late		20%

1. The Type 2 Notice of Intent to Construct does not apply to existing Basic ACDP or General ACDP sources.

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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.

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

Division 218
OREGON TITLE V OPERATING PERMITS

340-218-0020
Applicability

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

(a) Any major source;

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

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

(d) Any affected source under Title IV; and

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

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

(3) Synthetic minor sources.

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

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

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

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

(4) Source category exemptions.

(a) All sources listed in OAR 340-218-0020(1) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit under section 129(e) of the FCAA are not required to obtain a Title V permit, unless the source is a non-major source subject to a standard under section 111 or section 112 of the FCAA that specifically requires the source to obtain a Title V permit.

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

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

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

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

(5) Sources subject to this division may also be subject to OAR 340-245-0005 through 340-245-8010.

(6) 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.

(7) 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.

(8) 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.

(9) Oregon Title V Operating Permit program sources that are required to obtain an ACDP, OAR chapter 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.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310

Statutes/Other Implemented: ORS 468A
History:
DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2110
DEQ 10-1999, f. & cert. ef. 7-1-99
DEQ 14-1998, f. & cert. ef. 9-14-98
DEQ 1-1997, f. & cert. ef. 1-21-97
DEQ 24-1995, f. & cert. ef. 10-11-95
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & ef. 10-28-94
DEQ 12-1993, f. & cert. ef. 9-24-93

340-218-0040
Permit Applications

(1) Duty to apply. For each Oregon Title V Operating Permit program source, the owner or operator must submit a timely and complete permit application according to this rule:

(a) Timely application:

(A) A timely application for a source that is in operation as of the effective date of the Oregon Title V Operating Permit program is one that is submitted 12 months after the effective date of the Oregon Title V Operating Permit program in Oregon or on or before such earlier date as DEQ may establish. If an earlier date is established, DEQ will provide at least six (6) months for the owner or operator to prepare an application. A timely application for a source that is not in operation or that is not subject to the Oregon Title V Operating Permit program as of the effective date of the Oregon Title V Operating Permit program is one that is submitted within 12 months after the source becomes subject to the Oregon Title V Operating Permit program;

(B) Any Oregon Title V Operating Permit program source required to have obtained a permit prior to construction under the ACDP program, OAR chapter 340, division 216; New Source Review program, OAR chapter 340, division 224; or the Notice of Construction and Approval of Plans rules, 340-210-0205 through 340-210-0250, must file a complete application to obtain the Oregon Title V Operating Permit or permit revision within 12 months after commencing operation. Commencing operation will be considered initial startup of the construction or modification. Where an existing Oregon Title V Operating Permit would prohibit such construction or change in operation, the owner or operator must obtain a permit revision before commencing operation;

(C) Any Oregon Title V Operating Permit program source owner or operator must follow the appropriate procedures under this division prior to commencement of operation of a source permitted under the Notice of Construction and Approval of Plans rules, OAR 340-210-0205 through 340-0210-0250;

(D) For purposes of permit renewal, a timely application is one that is submitted at least 12 months prior to the date of permit expiration, or such other longer time as may be approved by DEQ that ensures that the term of the permit will not expire before the permit is renewed. If more than 12 months is required to process a permit renewal application, DEQ will provide no less than six (6) months for the owner or operator to prepare an application. In no event will this time be greater than 18 months; and

(E) Applications for Compliance Extensions for Early Reductions of HAP must be submitted before proposal of an applicable emissions standard issued under section 112(d) of the FCAA and must comply with OAR 340-244-0100.

(b) Complete application:

(A) To be deemed complete, an application must provide all information required pursuant to section (3). Complete applications must be submitted using electronic forms provided by DEQ, unless otherwise allowed in writing by DEQ, and all applicable fees. Information required under section (3) must be sufficient to evaluate the subject source and to determine all applicable requirements. A responsible official must certify the submitted information under section (6);

(B) Applications which are obviously incomplete, unsigned, or which do not contain the required exhibits, clearly identified, will not be accepted by DEQ for filing and will be returned to the applicant for completion;

(C) If DEQ determines that additional information is necessary before making a completeness determination, it may request such information in writing and set a reasonable deadline for a response. The application will not be considered complete for processing until the adequate information has been received, either before the expiration of the permit or by the reasonable deadline for response if after the expiration date of the permit. When the information in the application is deemed adequate, the applicant will be notified that the application is complete for processing;

(D) Unless DEQ determines that an application is not complete within 60 days of receipt of the application, such application will be deemed to be complete, except as otherwise provided in OAR 340-218-0120(1)(e). If, while processing an application that has been determined or deemed to be complete, DEQ determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. If the additional information is not provided by the deadline specified, the application will be determined to be incomplete, and the application shield will cease to apply;

(E) Applications determined or deemed to be complete will be submitted by DEQ to the EPA as required by OAR 340-218-0230(1)(a); and

(F) The source's ability to operate without a permit, as set forth in 340-218-0120(2), will be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by DEQ.

(2) Duty to supplement or correct application. Any applicant 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. In addition, an applicant must provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(3) Standard application form and required information. Applications must be submitted in electronic formats specified by DEQ, unless otherwise allowed in writing by DEQ. Information as described below for each emissions unit at an Oregon Title V Operating Permit program source must be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, including those requirements that apply to categorically insignificant activities, or to evaluate the fee amount required. The application must include the elements specified below, except for renewal applications as required in section (4):

(a) Identifying information, including company name and address, plant name and address if different from the company's name, owner's name and agent, and telephone number and names of plant site manager/contact;

(b) A description of the source's processes and products by Standard Industrial Classification Code including any associated with each alternative operating scenario identified by the owner or operator and related flow chart;

(c) The following emissions-related information for all requested alternative operating scenarios identified by the owner or operator:

(A) All emissions of regulated pollutants for which the source is major, all emissions of regulated pollutants and all emissions of regulated pollutants listed in OAR 340-244-0040. A permit application must describe all emissions of regulated pollutants emitted from any emissions unit, except where such units are exempted under this section. DEQ may require additional information related to the emissions of regulated pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed;

(B) Identification and description of all points of emissions described in paragraph (3)(c)(A) in sufficient detail to establish the basis for fees and applicability of requirements of the FCAA and state rules;

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method and to establish PSELs for all regulated pollutants except as restricted by OAR 340-222-0035 and 340-222-0060:

(i) If a short term PSEL is required, an applicant may request that a period longer than daily be used for the short term PSEL provided that the requested period is consistent with the means for demonstrating compliance with any other applicable requirement and the PSEL requirement, and:

(I) The requested period is no longer than the shortest period of the Ambient Air Quality Standards for the regulated pollutant or daily for VOC and NOx; or

(II) The applicant demonstrates that the requested period, if longer than the shortest period of the Ambient Air Quality Standards for the regulated pollutant, is the shortest period compatible with source operations but no longer than monthly.

(ii) The requirements of the applicable rules must be satisfied for any requested increase in PSELs, establishment of baseline emissions rates, requested emission reduction credit banking, or other PSEL changes.

(D) Additional information as determined to be necessary to establish any alternative emission limit under OAR 340-226-0400, if the permit applicant requests one;

(E) The application must include a list of all categorically insignificant activities and an estimate of all emissions of regulated pollutants from those activities which are designated insignificant because of aggregate insignificant emissions. Owners or operators that use more than 100,000 pounds per year of a mixture that contains not greater than 1% by weight of any chemical or compound regulated under divisions 200 through 268 of this chapter, and not greater than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens must contact the supplier and manufacturer of the mixture to try and obtain information other than Material Safety Data Sheets in order to quantify emissions;

(F) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel sulfur content, fuel use, raw materials, production rates, and operating schedules;

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

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

(I) Identification and description of air pollution control devices, including estimated efficiency of the control devices, and compliance monitoring devices or activities;

(J) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Oregon Title V Operating Permit program source;

(K) Other information required by any applicable requirement, including information related to stack height limitations developed pursuant to OAR 340-212-0130;

(L) Calculations on which the information in items (A) through (K) is based;

(M) The most recent information reported through EPA's Toxics Release Inventory program at the time of application submittal, if the source is subject to the program; and

(N) When required by DEQ, an air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225, demonstrating that the emissions, including reductions due to air pollution control devices or permitted limits on production capacity, will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202.

(d) A plot plan showing the location of all emissions units identified by Universal Transverse Mercator or "UTM" as provided on United States Geological Survey maps and the nearest residential or commercial property;

(e) The following air pollution control requirements:

(A) Citation and description of all applicable requirements; and

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(f) The following monitoring, recordkeeping, and reporting requirements:

(A) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including OAR 340-212-0200 through 340-212-0280;

(B) Proposed periodic monitoring to determine compliance where an applicable requirement does not require periodic testing or monitoring;

(C) The proposed use, maintenance, and installation of monitoring equipment or methods, as necessary;

(D) Documentation of the applicability of the proposed monitoring protocol, such as test data and engineering calculations;

(E) Proposed consolidation of reporting requirements, where possible;

(F) A proposed schedule of submittal of all reports; and

(G) Other similar information as determined by DEQ to be necessary to protect human health or the environment or to determine compliance with applicable requirements.

(g) Other specific information that may be necessary to implement and enforce other applicable requirements of the FCAA or state rules or of this division or to determine the applicability of such requirements;

(h) An explanation of any proposed exemptions from otherwise applicable requirements.

(i) A copy of any existing permit attached as part of the permit application. Owners or operators may request that DEQ make a determination that an existing permit term or

condition is no longer applicable by supplying adequate information to support such a request. The existing permit term or condition will remain in effect unless or until DEQ determines that the term or condition is no longer applicable by permit modification.

(j) Additional information as determined to be necessary by DEQ to define permit terms and conditions implementing off-permit changes for permit renewals;

(k) Additional information as determined to be necessary by DEQ to define permit terms and conditions implementing section 502(b)(10) changes for permit renewals;

(l) Additional information as determined to be necessary by DEQ to define permit terms and conditions implementing emissions trading under the PSEL including but not limited to proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable if the applicant requests such trading;

(m) Additional information as determined to be necessary by DEQ to define permit terms and conditions implementing emissions trading, to the extent that the applicable requirements provide for trading without a case-by-case approval of each emissions trade if the applicant requests such trading;

(n) A compliance plan that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements.

(B) A description as follows:

(i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(C) A compliance schedule as follows:

(i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A generic statement that the source will meet in a timely manner applicable requirements that become effective during the permit term will satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement;

(iii) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule will include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance and interim measures to be taken by the source to minimize the amount of excess emissions during the scheduled period. This compliance schedule must resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance must be supplemental to, and must not sanction noncompliance with, the applicable requirements on which it is based.

(D) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.

(E) The compliance plan content requirements specified in this section will apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the FCAA with regard to the schedule and method the source will use to achieve compliance with the acid rain emissions limitations.

(o) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements by a responsible official consistent with section (6) and section 114(a)(3) of the FCAA;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by DEQ; and

(D) A statement indicating the source's compliance status with any applicable compliance assurance monitoring and compliance certification requirements of the FCAA or state rules.

(p) A Land Use Compatibility Statement (LUCS), when required by OAR chapter 340, division 018:

(A) Signed by the applicable local planning jurisdiction(s) to assure that the type of land use and activities in conjunction with that use have been reviewed and approved as compatible with the applicable local jurisdiction’s acknowledged comprehensive plan, before a permit is processed and issued. If DEQ receives a LUCS which states that the proposed action is incompatible with the acknowledged comprehensive plan, DEQ shall notify the applicant that the application cannot be processed; or

(B) If the local planning jurisdiction declines to provide a LUCS determination in response to a request for a LUCS, the owner or operator must provide DEQ with its own analysis to demonstrate that the proposed action complies with all applicable statewide planning goals.

(q) The use of nationally standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the FCAA.

(r) For purposes of permit renewal, the owner or operator must submit all information as required in section (3). The owner or operator may identify information in its previous permit or permit application for emissions units that should remain unchanged and for which no changes in applicable requirements have occurred and provide copies of the previous permit or permit application for those emissions units.

(4) Permit Renewal Applications. Any person required to renew an existing permit must submit a complete application using forms provided by DEQ, unless otherwise allowed in writing by DEQ. The renewal application must include:

(a) All information identified in section (3) that has changed since the last permit renewal or issuance;

(b) A complete list of all emissions units, including all air pollution control devices, and all categorically and aggregate insignificant activities;

(c) 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;

(d) All changes to the source since the last permit issuance and all requirements applicable to those changes; and

(e) When required by DEQ, an air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225, demonstrating that the source’s emissions, including reductions due to air pollution control devices or permitted limits on production capacity, will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202.

(5) Quantifying Emissions:

(a) When quantifying emissions for purposes of a permit application, modification, or renewal an owner or operator must use the most representative data available or required in a permit condition. DEQ will consider the following data collection methods as acceptable for determining air emissions:

(A) Continuous emissions monitoring system data obtained using the DEQ Continuous Monitoring Manual [NOTE: DEQ Manuals are published with OAR 340-200-0035];

(B) Source testing data obtained using the DEQ Source Sampling Manual except where material balance calculations are more accurate and more indicative of an emissions unit's continuous operation than limited source test results (e.g. a volatile organic compound coating operation) [NOTE: DEQ Manuals are published with OAR 340-200-0035];

(C) Material balance calculations;

(D) Emission factors subject to Department review and approval; and

(E) Other methods and calculations subject to Department review and approval.

(b) When continuous monitoring or source test data has previously been submitted to and approved by DEQ for a particular emissions unit, that information must be used for quantifying emissions. Material balance calculations may be used as the basis for quantifying emissions when continuous monitoring or source test data exists if it can be demonstrated that the results of material balance calculations are more indicative of actual emissions under normal continuous operating conditions. Emission factors or other methods may be used for calculating emissions when continuous monitoring data, source test data, or material balance data exists if the owner or operator can demonstrate that the existing data is not representative of actual operating conditions. When an owner or operator uses emission factors or other methods as the basis of calculating emissions, a brief justification for the validity of the emission factor or method must be submitted with the calculations. DEQ will review the validity of the emission factor or method during the permit application review period. When an owner or operator collects emissions data that is more representative of actual operating conditions, either as required under a specific permit condition or for any other requirement imposed by DEQ, the owner or operator must use that data for calculating emissions when applying for a permit modification or renewal. Nothing in this provision requires owners or operators to conduct monitoring or testing solely for the purpose of quantifying emissions for permit applications, modifications, or renewals.

(6) Any application form, report, or compliance certification submitted pursuant to this division must contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this division must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

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

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.050 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 130-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2120
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & ef. 10-28-94
DEQ 19-1993, f. & ef. 11-4-93
DEQ 13-1993, f. & ef. 9-24-93

340-218-0050
Standard Permit Requirements

Each permit issued under this division must include the following elements:

(1) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance:

(a) The permit must specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based;

(b) To ensure the source's emission will not cause or contribute to a new exceedance of a National Ambient Air Quality Standard adopted under OAR chapter 340, division 202:

(A) Any physical or operational limitation, including any combination of the use of control devices, restrictions on hours of operation, or restrictions on the type or amount of materials combusted, stored, or processed, will be included as permit conditions to limit short term emissions for all emissions units that require controls or limitations; or

(B) A requirement to conduct ambient monitoring to confirm a new exceedance of a National Ambient Air Quality Standard. Ambient monitoring and meteorological monitoring must be conducted in accordance with a DEQ approved monitoring plan for a period of not less than 12 months. There must be at least 12 months of valid data with greater than 75 percent data completeness per quarter;

(c) For sources regulated under the national acid rain program, the permit must state that, where an applicable requirement of the FCAA or state rules is more stringent than an applicable requirement of regulations promulgated under Title IV of the FCAA, both provisions must be incorporated into the permit and will be enforceable by the EPA;

(d) For any alternative emission limit established using OAR 340-226-0400, the permit must contain an equivalency determination and provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(2) Permit duration. DEQ will issue permits for a fixed term of 5 years in the case of affected sources, and for a term not to exceed 5 years in the case of all other sources.

(3) Monitoring and related recordkeeping and reporting requirements:

(a) Each permit must contain the following requirements with respect to monitoring:

(A) A monitoring protocol to provide accurate and reliable data that:

(i) Is representative of actual source operation;

(ii) Is consistent with the averaging time in the permit emission limits;

(iii) Is consistent with monitoring requirements of other applicable requirements; and

(iv) Can be used for compliance certification and enforcement.

(B) All emissions monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including OAR 340-212-0200 through 340-212-0280 and any other procedures and methods that may be promulgated pursuant to sections 504(b) or 114(a)(3) of the FCAA. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;

(C) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to OAR 340-218-0050(3)(c). Such monitoring requirements must assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Continuous monitoring and source testing must be conducted using the DEQ Continuous Monitoring Manual and the Source Sampling Manual, respectively. [NOTE: DEQ manuals are published with OAR 340-200-0035.] Other monitoring must be conducted using DEQ approved procedures. The monitoring requirements may include but are not limited to any combination of the following:

(i) Continuous emissions monitoring systems (CEMS);

(ii) Continuous opacity monitoring systems (COMS);

(iii) Continuous parameter monitoring systems (CPMS);

(iv) Continuous flow rate monitoring systems (CFRMS);

(v) Source testing;

(vi) Material balance;

(vii) Engineering calculations;

(viii) Recordkeeping; or

(ix) Fuel analysis; and

(D) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods;

(E) A condition that prohibits any person from knowingly rendering inaccurate any required monitoring device or method;

(F) Methods used in OAR chapter 340, division 220 to determine actual emissions for fee

purposes must also be used for compliance determination and can be no less rigorous than the requirements of OAR 340-218-0080. The compliance monitoring protocol must include the method used to determine the amount of actual emissions;

(G) Monitoring requirements must commence on the date of permit issuance unless otherwise specified in the permit.

(b) With respect to recordkeeping, the permit must incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(A) Records of required monitoring information that include the following:

(i) The date, place as defined in the permit, and time of sampling or measurements;

(ii) The date analyses were performed;

(iii) The company or entity that performed the analyses;

(iv) The analytical techniques or methods used;

(v) The results of such analyses;

(vi) The operating conditions as existing at the time of sampling or measurement; and

(vii) The records of quality assurance for continuous monitoring systems (including but not limited to quality control activities, audits, calibrations drifts).

(B) Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit;

(C) Recordkeeping requirements must commence on the date of permit issuance unless otherwise specified in the permit.

(c) With respect to reporting, the permit must incorporate all applicable reporting requirements and require the following:

(A) Submittal of one (1) electronic copy of reports of any required monitoring at least every 6 months, unless otherwise required by permit, completed on forms approved by DEQ. Unless otherwise approved in writing by DEQ, six-month periods are January 1 to June 30, and July 1 to December 31. The reports required by this rule must be submitted within 30 days after the end of each reporting period, unless otherwise approved in writing by DEQ. One copy of the report must be submitted to the EPA, and two copies to DEQ's regional office identified in the permit. All instances of deviations from permit requirements must be clearly identified in such reports:

(i) The semi-annual report will be due on July 30, unless otherwise approved in writing by DEQ, and must include the semi-annual compliance certification, OAR 340-218-0080;

(ii) The annual report will be due on February 15, unless otherwise approved in writing by DEQ, but may not be due later than March 15, and must consist of the annual reporting requirements as specified in the permit; the emission fee report; the emission statement, if applicable, OAR 340-214-0220; the annual certification that the risk management plan is being properly implemented, 340-218-0050; and the semi-annual compliance certification, 340-218-0080.

(B) Prompt reporting of deviations from permit requirements that do not cause excess emissions, including those attributable to upset conditions, as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. "Prompt" means within fifteen (15) days of the deviation. Deviations that cause excess emissions, as specified in OAR 340-214-0300 through 340-214-0360 must be reported under 340-214-0340;

(C) Submittal of any required source test report within 30 days after the source test unless otherwise approved in writing by DEQ or specified in a permit;

(D) All required reports must be certified by a responsible official consistent with OAR 340-218-0040(6);

(E) Reporting requirements must commence on the date of permit issuance unless otherwise specified in the permit.

(d) DEQ may incorporate more rigorous monitoring, recordkeeping, or reporting methods than required by applicable requirements in an Oregon Title V Operating Permit if they are contained in the permit application, are determined by DEQ to be necessary to determine compliance with applicable requirements, or are needed to protect human health or the environment.

(4) A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the FCAA or the regulations promulgated there under:

(a) No permit revision will be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement;

(b) No limit may be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement;

(c) Any such allowance must be accounted for according to the procedures established in regulations promulgated under Title IV of the FCAA.

(5) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(6) Provisions stating the following:

(a) The permittee must comply with all conditions of the Oregon Title V Operating Permit, including keeping a copy of the permit onsite at the source. Any permit condition noncompliance constitutes a violation of the FCAA and state rules and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application;

(b) The need to halt or reduce activity will not be a defense. It will not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit;

(c) The permit may be modified, revoked, reopened and reissued, or terminated for cause as determined by DEQ. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition;

(d) The permit does not convey any property rights of any sort, or any exclusive privilege;

(e) The permittee must furnish to DEQ, within a reasonable time, any information that DEQ may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee must also furnish to DEQ copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the EPA along with a claim of confidentiality.

(7) A provision to ensure that an Oregon Title V Operating Permit program source pays fees to DEQ consistent with the fee schedule in OAR chapter 340, division 220.

(8) Terms and conditions for reasonably anticipated alternative operating scenarios identified by the owner or operator in its application as approved by DEQ. Such terms and conditions:

(a) Must require the owner or operator, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

(b) Must extend the permit shield described in OAR 340-218-0110 to all terms and conditions under each such alternative operating scenario; and

(c) Must ensure that the terms and conditions of each such alternative operating scenario meet all applicable requirements and the requirements of this division.

(9) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with the PSELs. Such terms and conditions:

(a) Must include all terms required under OAR 340-218-0050 and 340-218-0080 to determine compliance;

(b) Must extend the permit shield described in OAR 340-218-0110 to all terms and conditions that allow such increases and decreases in emissions;

(c) Must ensure that the trades are quantifiable and enforceable;

(d) Must ensure that the trades are not Title I modifications;

(e) Must require a minimum 7-day advance, written notification to DEQ and the EPA of the trade that must be attached to DEQ's and the source's copy of the permit. The written notification must state when the change will occur and must describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit; and

(f) Must meet all applicable requirements and requirements of this division.

(10) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emission trade. Such terms and conditions:

(a) Must include all terms required under OAR 340-218-0050 and 340-218-0080 to determine compliance;

(b) Must extend the permit shield described in OAR 340-218-0110 to all terms and conditions that allow such increases and decreases in emissions; and

(c) Must meet all applicable requirements and requirements of this division.

(11) Terms and conditions allowing for off-permit changes, OAR 340-218-0140(2).

(12) Terms and conditions allowing for section 502(b)(10) changes, OAR 340-218-0140(3).

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

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 131-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 10-2008, f. & cert. ef. 8-25-08
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2130
DEQ 21-1998, f. & cert. ef. 10-14-98
DEQ 22-1995, f. & cert. ef. 10-6-95

DEQ 24-1994, f. & ef. 10-28-94
DEQ 13-1993, f. & ef. 9-24-93

340-218-0080
Compliance Requirements

All Oregon Title V Operating Permits must contain the following elements with respect to compliance:

(1) Consistent with OAR 340-218-0050(3), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit.

(2) A requirement that any document (including but not limited to reports) required by an Oregon Title V Operating Permit must contain a certification by a responsible official or the designated representation for the acid rain portion of the permit that meets the requirements of OAR 340-218-0040(6).

(3) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee must allow DEQ or an authorized representative to perform the following:

(a) Enter upon the permittee's premises where an Oregon Title V Operating Permit program source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control devices), practices, or operations regulated or required under the permit; and

(d) As authorized by the FCAA or state rules, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(4) A schedule of compliance consistent with OAR 340-218-0040(3)(n)(C).

(5) Progress reports consistent with an applicable schedule of compliance and OAR 340-218-0040(3)(n)(C) to be submitted at least semi-annually, or at a more frequent period if specified in the applicable requirement or by DEQ. Such progress reports must contain the following:

(a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(6) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits must include each of the following:

(a) The frequency (not less than annually or such more frequent periods as specified in the applicable requirement or by DEQ) of submissions of compliance certifications;

(b) Under OAR 340-218-0050(3), a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;

(c) A requirement that the compliance certification include all of the following (provided that the identification of applicable information may cross-reference the permit or previous reports, as applicable):

(A) The identification of each term or condition of the permit that is the basis of the certification;

(B) The identification of the method or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means must include, at a minimum, the methods and means required under OAR 340-218-0050(3). If necessary, the owner or operator also must identify any other material information that must be included in the certification to comply with section 113(c)(2) of the FCAA, which prohibits knowingly making a false certification or omitting material information;

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification must be based on the method or means designated in paragraph (6)(c)(B). The certification must identify each deviation and take it into account in the compliance certification. The certification must also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under OAR 340-200-0020 and 40 CFR part 64 occurred; and

(D) Such other facts as DEQ may require to determine the compliance status of the source.

(d) A requirement that all compliance certifications be submitted to the EPA as well as to DEQ; and

(e) Notwithstanding any other provision contained in any applicable requirement, the owner or operator may use monitoring as required under OAR 340-218-0050(3) and incorporated into the permit, in addition to any specified compliance methods, for the purpose of submitting compliance certifications.

(7) Annual certification that the risk management plan is being properly implemented under 40 CFR Part 68.

(8) Such other provisions as DEQ may require in order to protect human health or the environment.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040, 468A.050 & 468A.310
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2160
DEQ 21-1998, f. & cert. ef. 10-14-98
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 12-1993, f. & cert. ef. 9-24-93

340-218-0150
Administrative Permit Amendments

(1) An "administrative permit amendment" is a permit revision that:

(a) Corrects typographical errors;

(b) Identifies a change in the name, address, or phone number of the responsible official identified in the permit, or provides a similar minor administrative change at the source;

(c) Allows for a change in the name of the permittee;

(d) Allows for a change in ownership or operational control of a source where DEQ determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to DEQ;

(e) Requires more frequent monitoring or reporting by the permittee;

(f) Allows for a change in the date for reporting or source testing requirements for a source or emissions unit that is temporarily shut down or would otherwise have to be operated solely for the purposes of conducting the source test, except when required by a compliance schedule;

(g) Relaxes monitoring, reporting or recordkeeping due to a permanent source shutdown for only the emissions unit being shut down; or

(h) Incorporates into the Oregon Title V Operating Permit the requirements from preconstruction review permits authorized under OAR chapter 340, division 224 or OAR 340-210-0205 through 340-210-0250, provided that the procedural requirements followed in the preconstruction review are substantially equivalent to the requirements of 340-218-0120 through 340-218-0210 and 340-218-0230 that would be applicable to the change if it were subject to review as a permit modification, compliance requirements are substantially equivalent to those contained in 340-218-0050 through 340-218-0110, and no changes in the construction or operation of the facility that would require a permit modification under 340-218-0160 through 340-218-0180 have taken place.

(2) Administrative permit amendments for purposes of the national acid rain portion of the permit will be governed by regulations promulgated under Title IV of the FCAA.

(3) Administrative permit amendment procedures. An administrative permit amendment will be made by DEQ consistent with the following:

(a) The owner or operator must promptly submit an application for an administrative permit amendment, along with the applicable fees, upon becoming aware of the need for one on forms provided by DEQ along with a copy of the draft amendment;

(b) DEQ will take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this rule;

(c) DEQ will issue the administrative permit amendment in the form of a permit addendum for only those conditions that will change;

(d) DEQ will submit a copy of the permit addendum to the EPA;

(e) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request;

(f) If the source fails to comply with its draft permit terms and conditions upon submittal of the application and until DEQ takes final action, the existing permit terms and conditions it seeks to modify may be enforced against it.

(4) DEQ must, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAR 340-218-0110 only for administrative permit amendments made pursuant to OAR 340-218-0150(1)(h) which meet the relevant requirements of OAR 340-218-0050 through 340-218-0240 for significant permit modifications.

(5) If it becomes necessary for DEQ to initiate an administrative amendment to the permit, DEQ will notify the permittee of the intended action by certified or registered mail. The action will become effective 20 days after the date of mailing unless within that time the permittee makes a written request for a hearing. The request must state the grounds for the hearing. Any hearing held will be conducted pursuant to the applicable provisions of ORS 183 and OAR chapter 340, division 11.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 132-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2230

DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & ef. 10-28-94
DEQ 12-1993, f. & cert. ef. 9-24-93

340-218-0170
Minor Permit Modifications

(1) Criteria:

(a) Minor permit modification procedures may be used only for those permit modifications that:

(A) Do not violate any applicable requirement;

(B) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

(C) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(D) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

(i) A federally enforceable emissions cap assumed to avoid classification as a Title I modification; and

(ii) An alternative emissions limit approved pursuant to OAR 340-244-0100 through 340-244-0180.

(E) Do not increase emissions over the PSEL;

(F) Are not Title I modifications; and

(G) Are not required by OAR 340-218-0180 to be processed as a significant modification.

(b) Notwithstanding subsection (1)(a), minor permit modification procedures may be used for permit modifications involving the use of emissions trading and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the Oregon SIP or in applicable requirements promulgated by the EPA.

(2) Minor permit modification procedures. A minor permit modification will be made by DEQ consistent with the following:

(a) Application. An application requesting the use of minor permit modification procedures must meet the requirements of OAR 340-218-0040(3), must be submitted on forms and

electronic formats provided by DEQ, along with the applicable fees, and must include the following additional information:

(A) A description of the change, the change in emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) The source's suggested draft permit;

(C) Certification by a responsible official, consistent with OAR 340-218-0040(6), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(D) Completed forms for DEQ to use to notify the EPA and affected states as required under OAR 340-218-0230.

(b) EPA and affected state notification. Within five working days of receipt of a complete minor permit modification application, DEQ will meet its obligation under OAR 340-218-0230(1)(a) and (2)(a) to notify the EPA and affected states of the requested permit modification. DEQ promptly will send any notice required under OAR 340-218-0230(2)(b) to the EPA;

(c) Timetable for issuance. DEQ will not issue a final permit modification until after the EPA's 45-day review period or until the EPA has notified DEQ that the EPA will not object to issuance of the permit modification, whichever is first, although DEQ can approve the permit modification prior to that time. Within 90 days of DEQ's receipt of an application under minor permit modification procedures or 15 days after the end of the EPA's 45-day review period under OAR 340-218-0230(3), whichever is later, DEQ will:

(A) Issue the permit modification as proposed for only those conditions that will change;

(B) Deny the permit modification application;

(C) Determine that the requested modification does not meet the minor permit modification criteria and must be reviewed under the significant modification procedures; or

(D) Revise the draft permit modification and transmit to the EPA the new proposed permit modifications as required by OAR 340-218-0230(1).

(d) Source's ability to make change. The source may make the change proposed in its minor permit modification application immediately after it files an application. After the source makes the change, and until the permitting authority takes any of the actions specified in paragraphs (2)(c)(A) through (C), the source must comply with both the applicable requirements governing the change and the draft permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its draft permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it;

(e) DEQ may initiate enforcement if the modification has been initiated and does not meet the minor permit modification criteria;

(f) Permit shield. The permit shield under OAR 340-218-0110 does not extend to minor permit modifications.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2250
DEQ 12-1993, f. & cert. ef. 9-24-93

340-218-0180
Significant Permit Modifications

(1) Criteria. Significant modification procedures must be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. Significant modifications include:

(a) Increases in PSELs except those increases subject to OAR 340-210-0205 through 340-210-0250; or OAR chapter 340, division 224;

(b) Every significant change in existing monitoring permit terms or conditions;

(c) Every relaxation of reporting or recordkeeping permit terms or conditions;

(d) Incorporation into the Oregon Title V Operating Permit the requirements from pre-construction review permits authorized under OAR chapter 340, division 224 unless the incorporation qualifies as an administrative amendment;

(e) Incorporation into the Oregon Title V Operating Permit the requirements from preconstruction review permits authorized under OAR 340-210-205 through 340-210-0250 unless otherwise specified in 340-218-0190(2); and

(f) Nothing herein may be construed to preclude the permittee from making changes consistent with this division that would render existing permit compliance terms and conditions irrelevant.

(2) Significant permit modifications will be subject to all requirements of this division, including those for applications, applicable fees, public participation, review by affected States, and review by the EPA, as they apply to permit issuance and permit renewal.

(3) Major modifications, as defined in OAR 340-200-0020, require an ACDP under OAR chapter 340, division 224.

(4) Constructed and reconstructed major hazardous air pollutant sources are subject to OAR

340-210-0205 through 340-210-0250 and OAR 340-244-0200.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2260
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 12-1993, f. & cert. ef. 9-24-93

340-218-0240
Enforcement

(1) No person may violate the conditions of any Oregon Title V Operating Permit issued to the person under this division.

(2) Whenever it appears to DEQ that any activity in violation of a permit that results in air pollution or air contamination is presenting an imminent and substantial endangerment to the public health, DEQ may enter a cease and desist order pursuant to ORS 468.115 or seek injunction relief pursuant to 468.100.

(3)(a) Whenever DEQ has good cause to believe that any person is engaged in or about to engage in acts or practices that constitute a violation of any part of the stationary source air permitting rules or any provision of a permit issued pursuant to these rules, DEQ may seek injunctive relief in court to enforce compliance thereto or to restrain further violations;

(b) The proceedings authorized by subsection (a) may be instituted without the necessity of prior agency revocation of the permit or during a permit revocation proceeding if one has been commenced.

(4) In addition to the enforcement authorities contained in sections (2) and (3) and any other penalty provided by law, any person who violates any of the following will incur a civil penalty as authorized under ORS 468.140 and established pursuant to OAR chapter 340, division 12:

(a) Any applicable requirement;

(b) Any permit condition;

(c) Any fee or filing requirements;

(d) Any duty to allow or carry out inspection, entry or monitoring activities; or

(e) Any rules or orders issued by DEQ.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2320
DEQ 12-1993, f. & cert. ef. 9-24-93

Division 220
OREGON TITLE V OPERATING PERMIT FEES

340-220-0180
Late and Underpayment of Fees

(1) Notwithstanding any enforcement action, the owner or operator will be subject to a late payment fee of:

(a) Two hundred dollars for payments received more than seven and less than 30 days late; and

(b) Four hundred dollars for payments received on or after 30 days late.

(2) Notwithstanding any enforcement action, DEQ may assess an additional fee of the greater of $400 or 20 percent of the amount underpaid for substantial underpayment.

Statutory/Other Authority: ORS 468.020, 468.065, 468A.310 & 468A.315
Statutes/Other Implemented: ORS 468 & 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2730
DEQ 13-1994, f. & cert. ef. 5-19-94
DEQ 20-1993(Temp), f. & cert. ef. 11-4-93

Division 222
STATIONARY SOURCE PLANT SITE EMISSION LIMITS

340-222-0020
Applicability and Jurisdiction

(1) Plant Site Emission Limits (PSELs) will be included in all Air Contaminant Discharge Permits (ACDP) and Oregon Title V Operating Permits, except as provided in section (3), as a means of managing airshed capacity by regulating increases and decreases in air emissions. Except as provided in OAR 340-222-0035(5) and 340-222-0060, all ACDP and Oregon Title V Operating Permit sources are subject to PSELs for all regulated pollutants listed in the definition of SER in 340-200-0020. DEQ will incorporate PSELs into permits when issuing a new permit or renewing or modifying an existing permit.

(2) The emissions limits established by PSELs provide the basis for:

(a) Assuring reasonable further progress toward attaining compliance with ambient air quality standards;

(b) Assuring compliance with ambient air quality standards and PSD increments;

(c) Administering offset and banking programs; and

(d) Establishing the baseline for tracking the consumption of PSD increments.

(3) PSELs are not required for:

(a) Regulated pollutants that will be emitted at less than the de minimis emission level listed in OAR 340-200-0020 from the entire source;

(b) Short Term Activity and Basic ACDPs;

(c) Hazardous air pollutants as listed in OAR 340-244-0040 Table 1; high-risk pollutants listed in 40 CFR 63.74; accidental release substances listed in 40 CFR 68.130; toxic air contaminants listed in OAR chapter 340, division 246; or toxic air contaminants listed in OAR chapter 340, division 247; except that PSELs are required for pollutants identified in this subsection that are also listed in the definition of SER, 340-200-0020; or

(d) General ACDPs or General Oregon Title V Operating Permits where federally enforceable limits on potential to emit, such as a physical or operational limit, are used rather than a PSEL.

(4) 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 that EQC adopted under OAR 340-200-0040.

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

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 11-2008, f. & cert. ef. 8-29-08
DEQ 4-2008(Temp), f. 3-4-08, cert. ef. 3-6-08 thru 9-1-08
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1010
DEQ 14-1998, f. & cert. ef. 9-14-98
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 19-1993, f. & cert. ef. 11-4-93

DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0301
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 25-1981, f. & cert. ef. 9-8-81

340-222-0035
General Requirements for Establishing All PSELs

(1) PSELs may not exceed limits established by any applicable federal or state regulation or by any specific permit conditions unless the source meets the specific provisions of OAR 340-226-0400 (Alternative Emission Controls).

(2) DEQ may change PSELs at the time of a permit renewal, or if DEQ modifies a permit pursuant to OAR 340-216-0084, Department Initiated Modifications, or 340-218-0200, Reopenings, if:

(a) DEQ determines errors were made in calculating the PSELs or more accurate and reliable data is available for calculating PSELs; or

(b) More stringent control is required by a rule adopted by the EQC.

(3) PSEL reductions required by rule, order or permit condition will be effective on the compliance date of the rule, order, or permit condition.

(4) Annual PSELs apply on a rolling 12-consecutive month basis and limit the source's potential to emit.

(5) PSELs do not include emissions from categorically insignificant activities. Emissions from categorically insignificant activities must be considered when determining Major NSR or Type A State NSR applicability under OAR chapter 340, division 224.

(6) PSELs must include aggregate insignificant emissions, if applicable. Emissions from aggregate insignificant activities must be considered when determining Major NSR or State NSR applicability under OAR chapter 340, division 224.

NOTE: This rule was moved verbatim from OAR 340-222-0043 and 340-222-0070 and amended on 04-16-15. Previous rule history for OAR 340-222-0043: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01. Previous rule history for OAR 340-222-0070: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 2-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1060; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:

Renumbered from 340-222-0043, DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-222-0041
Annual PSEL

(1) For sources subject to a General ACDP or a General Oregon Title V Operating Permit, a PSEL may be set based on the potential to emit of the largest emitting source in that source category for all sources on that permit type in the state. PSELs will be set for all regulated pollutants emitted at more than the de minimis emission level.

(2) For sources subject to a Simple ACDP, a PSEL will be set equal to the source's potential to emit.

(3) For sources subject to a Standard ACDP or an Oregon Title V Operating Permit, a PSEL will be set equal to the source's potential to emit, netting basis or a level requested by the applicant, whichever is less, except as provided in section (4) or (5).

(4) The initial PSEL for PM2.5 for a source that was permitted on or before May 1, 2011 with potential to emit greater than or equal to the SER will be set equal to the PM2.5 fraction of the PM10 PSEL in effect on May 1, 2011.

(a) Any source with a permit in effect on May 1, 2011 is eligible for an initial PM2.5 PSEL without being otherwise subject to section (5).

(b) For a source that had a permit in effect on May 1, 2011 but later needs to correct its PM10 PSEL that was in effect on May 1, 2011 due to more accurate or reliable information, the corrected PM10 PSEL will be used to correct the initial PM2.5 PSEL.

(A) Correction of a PM10 PSEL will not by itself trigger section (5) for PM2.5.

(B) Correction of a PM10 PSEL could result in further requirements for PM10 in accordance with all applicable regulations.

(c) If after establishing the initial PSEL for PM2.5 in accordance with this rule and establishing the initial PM2.5 netting basis in accordance with OAR 340-222-0046, the PSEL is more than nine tons above the netting basis, any future increase in the PSEL for any reason would be subject to section (5).

(5) If an applicant wants an annual PSEL at a rate greater than the netting basis, the applicant must, consistent with OAR 340-222-0035:

(a) Demonstrate that the requested increase over the netting basis is less than the SER; or

(b) For increases equal to or greater than the SER over the netting basis, demonstrate that the applicable Major NSR or State NSR requirements in OAR chapter 340, division 224 have

been satisfied, except that:

(A) An increase in the PSEL for GHGs is subject to the requirements of NSR specified in OAR 340-224-0010(1)(c) only if the criteria in OAR 340-224-0010(1)(c) are met; and

(B) An increase in the PSEL for particulate matter (PM) is not subject to the air quality analysis but an air quality analysis is required for PM10 or PM2.5 increases, if applicable.

(6) If the netting basis is adjusted in accordance with OAR 340-222-0051(3), then the PSEL is not required to be adjusted.

(7) For sources that meet the criteria in subsections (a), (b) and (c), the requirements of section (5) do not immediately apply, but any future increase in the PSEL greater than or equal to the de minimis level for any reason is subject to section (5).

(a) A PSEL is established or revised to include emissions from activities that both existed at a source and were defined as categorically insignificant activities prior to April 16, 2015;

(b) The PSEL exceeds the netting basis by more than or equal to the SER solely as a result of a revision described in subsection (a); and

(c) The source would not have been subject to Major NSR or Type A State NSR under the applicable requirements of division 224 prior to April 16, 2015 if categorically insignificant activities had been considered.

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 11-2002, f. & cert. ef. 10-8-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-222-0042
Short Term PSEL

(1) For sources located in areas with an established short term SER that is measured over an averaging period less than a full year, PSELs are required on a short term basis for those regulated pollutants that have a short term SER. The short term averaging period is daily, unless emissions cannot be monitored on a daily basis. The averaging period for short term PSELs can never be greater than monthly.

(a) For new and existing sources with potential to emit less than the short term SER, the short term PSEL will be set equal to the short term potential to emit.

(b) For existing sources with potential to emit greater than or equal to the short term SER, a

short term PSEL will be set equal to the source's short term potential to emit or to the current permit's short term PSEL, whichever is less.

(c) For new sources with potential to emit greater than or equal to the short term SER, the initial short term PSEL will be set at the level requested by the applicant provided the applicant meets the requirements of (2)(b).

(2) If a permittee requests an increase in a short term PSEL that will exceed the short term netting basis by an amount equal to or greater than the short term SER, the permittee must satisfy the requirements of subsections (a) or (b). In order to satisfy the requirements of subsection (a) or (b), the short term PSEL increase must first be converted to an annual increase by multiplying the short term increase by 8,760 hours, 365 days, or 12 months, depending on the term of the short term PSEL.

(a) Obtain offsets in accordance with the offset provisions for the designated area as specified in OAR 340-224-0510 through 340-224-0530, as applicable; or

(b) Obtain an allocation from an available growth allowance in accordance with the applicable maintenance plan.

(3) Once the short term PSEL is increased pursuant to section (2), the increased level becomes the basis for evaluating future increases in the short term PSEL.

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-222-0046
Netting Basis

(1) A netting basis will only be established for those regulated pollutants that could subject a source to NSR under OAR chapter 340, division 224.

(a) The initial PM2.5 netting basis for a source that was permitted prior to May 1, 2011 will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(b) The initial greenhouse gas netting basis for a source will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(2) A source's netting basis is established as specified in subsection (a), (b), or (c) and will be adjusted according to section (3):

(a) For all regulated pollutants except for PM2.5, a source's initial netting basis is equal to the baseline emission rate.

(b) For PM2.5, a source's initial netting basis is equal to the overall PM2.5 fraction of the PM10 PSEL in effect on May 1, 2011 multiplied by the PM10 netting basis in effect on May 1, 2011. DEQ may increase the initial PM2.5 netting basis by not more than 5 tons to ensure that the PM2.5 PSEL does not exceed the PM2.5 netting basis by more than the PM2.5 SER.

(A) Any source with a permit in effect on May 1, 2011 is eligible for a PM2.5 netting basis without being otherwise subject to OAR 340-222-0041(5).

(B) For a source that had a permit in effect on May 1, 2011 but later needs to correct its PM10 netting basis that was in effect on May 1, 2011, due to more accurate or reliable information, the corrected PM10 netting basis will be used to correct the initial PM2.5 netting basis.

(i) Correction of a PM10 netting basis will not by itself trigger OAR 340-222-0041(5) for PM2.5.

(ii) Correction of a PM10 netting basis could result in further requirements for PM10 in accordance with all applicable regulations.

(c) A source's netting basis is zero for:

(A) Any regulated pollutant emitted from a source that first obtained permits to construct and operate after the applicable baseline period for that regulated pollutant, and has not undergone NSR for that regulated pollutant, except as provided in subsection (b) for PM2.5;

(B) Any regulated pollutant for which the PSEL was set based on a generic PSEL under previously applicable rules; or

(C) Any source permitted as portable.

(3) A source's netting basis will be adjusted as follows:

(a) The netting basis will be reduced by any emission reductions required under a rule, order, or permit condition issued by the EQC or DEQ and required by the SIP or used to avoid any state (e.g., NSR) or federal requirements (e.g., NSPS, NESHAP), as of the effective date of the rule, order or permit condition;

(A) Netting basis reductions are effective on the effective date of the rule, order or permit condition that requires the reductions;

(B) Netting basis reductions may only apply to sources that are permitted, on the effective date of the applicable rule, order or permit condition, to operate the affected devices or

emissions units that are subject to the rule, order, or permit condition requiring emission reductions;

(C) Netting basis reductions will include reductions for unassigned emissions for devices or emissions units that are affected by the rule, order or permit condition, if the shutdown or over control that created the unassigned emissions occurred within five years prior to the adoption of the rule, order or permit condition that required an emission reduction unless the unassigned emissions have been used for internal netting actions. This provision applies to emission reductions that have been placed in unassigned emissions or that are eligible to be placed in unassigned emissions but the permit that would place them in unassigned emissions has not been issued.

(D) Netting basis reductions will not affect emission reduction credits established under division 268.

(E) Netting basis reductions for the affected devices or emissions units will be determined consistent with the approach used to determine the netting basis prior to the regulatory action reducing the emissions. The netting basis reduction is the difference between the emissions calculated using the previous emission rate and the emission rate established by rule, order, or permit using appropriate conversion factors when necessary.

(F) The netting basis reductions will not include emission reductions achieved under OAR 340-226-0110, 340-226-0120, or OAR chapter 340, division 244;

(b) The netting basis will be reduced by any unassigned emissions that are reduced under OAR 340-222-0055(3)(a);

(c) The netting basis will be reduced by the amount of emission reduction credits transferred off site in accordance with OAR chapter 340, division 268;

(d) The netting basis will be reduced when actual emissions are reduced according to OAR 340-222-0051(3);

(e) The netting basis will be increased by any of the following:

(A) For sources that obtained a permit on or after April 16, 2015, any emission increases approved through Major NSR or Type A State NSR action under OAR chapter 340, division 224;

(B) For sources that obtained a permit prior to April 16, 2015, any emission increases approved through the NSR regulations in OAR chapter 340, division 224 in effect at the time; or

(C) For sources where the netting basis was increased in accordance with the DEQ PSD rules that were in effect prior to July 1, 2001, the netting basis may include emissions from emissions units that were not subject to both an air quality analysis and control technology requirements if the netting basis had been increased following the rules in effect at the time.

(f) The netting basis will be increased by any emissions from activities previously classified as categorically insignificant prior to April 16, 2015, provided the activities existed during the baseline period or at the time of the last NSR permitting action that changed the netting basis under subsection (e).

(4) In order to maintain the netting basis, permittees must maintain either a Standard ACDP or an Oregon Title V Operating Permit. A request to be assigned any other type of ACDP sets the netting basis at zero upon issuance of the other type of permit and remains at zero unless an increase is approved under subsection (3)(e).

(5) If a source relocates to a different site that DEQ determines is within or affects the same airshed, and the time between operation at the old and new sites is less than six months, the source may retain the netting basis from the old site.

(6) A source's netting basis for a regulated pollutant with a revised definition will be corrected if the source is emitting the regulated pollutant at the time the definition is revised, and the regulated pollutant is included in the source's netting basis.

(7) Where EPA requires an attainment demonstration based on dispersion modeling, the netting basis must not be more than the level used in the dispersion modeling to demonstrate attainment with the ambient air quality standard (i.e., the attainment demonstration is an emission reduction required by rule).

NOTE: This rule was moved verbatim from OAR 340-200-0020(76) and amended on 04-16-15. Previous rule history for OAR 340-200-0020: [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.

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, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15

340-222-0060
Plant Site Emission Limits for Sources of Hazardous Air Pollutants

(1) DEQ may establish PSELs for hazardous air pollutants (HAPs) if an owner or operator requests that DEQ create an enforceable PTE limit.

(2) PSELs will be set only for individual or combined HAPs and will not list HAPs by name. The PSEL will be set on a rolling 12 month basis and will be set based on the potential to emit if more than the de minimis emission level and to also comply with OAR chapter 340, division 245.

(3) The alternative emissions controls (bubble) provisions of OAR 340-226-0400 do not apply to emissions of HAPs.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.040 & 468A.310
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2017, f. & cert. ef. 7-13-17
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1050
DEQ 19-1996, f. & cert. ef. 9-24-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 12-1993, f. & cert. ef. 9-24-93

Division 224
NEW SOURCE REVIEW

340-224-0030
New Source Review Procedural Requirements

(1) Information Required. The owner or operator of a source subject to Major NSR or State NSR must submit an application and all information DEQ needs to perform any analysis or make any determination required under this division and OAR chapter 340, division 225. The information must be in writing on forms supplied or approved by DEQ and include the information required to apply for a permit or permit modification under:

(a) OAR chapter 340, division 216 for Major NSR or Type A State NSR action; or

(b) OAR chapter 340, division 216 or 218, whichever is applicable, for Type B State NSR actions.

(2) Application Processing:

(a) For Type B State NSR, DEQ will review applications and issue permits using the procedures in OAR chapter 340, division 216 or 218, whichever is applicable.

(b) For Major NSR and Type A State NSR:

(A) Notwithstanding the requirements of OAR 340-216-0040(10), within 30 days after receiving an ACDP permit application to construct, or any additional information or amendment to such application, DEQ will advise the applicant whether the application is complete or if there is any deficiency in the application or in the information submitted. For purposes of this section, an application is complete as of the date on which DEQ received all required information;

(B) Upon determining that an application is complete, DEQ will undertake the public participation procedures in OAR chapter 340, division 209 for a Category IV permit action; and

(C) DEQ will make a final determination on the application within twelve months after receiving a complete application.

(3) An owner or operator that obtained approval of a project under this division must obtain approval for a revision to the project according to the permit application requirements in this division and OAR chapter 340, division 216 or 218, whichever is applicable, prior to initiating the revision. If construction has commenced, the owner or operator must temporarily halt construction until a revised permit is issued. The following are considered revisions to the project that would require approval:

(a) A change that would increase permitted emissions;

(b) A change that would require a re-evaluation of the approved control technology; or

(c) A change that would increase air quality impacts.

(4) For Major NSR and State NSR permit actions, an ACDP that approves construction must require construction to commence within 18 months of issuance. Construction approval terminates and is invalid if construction is not commenced within 18 months after DEQ issues such approval, or by the deadline approved by DEQ in an extension under section (5). Construction approval also terminates and is invalid if construction is discontinued for a period of 18 months or more or if construction is not completed within 18 months of the scheduled time. An ACDP may approve a phased construction project with separate construction approval dates for each subsequent phase and, for purposes of applying this section, the construction approval date for the second and subsequent phases will be treated

as the construction approval issuance date.

(5) For Major NSR and State NSR permit actions, DEQ may grant for good cause one or two 18-month construction approval extensions as follows:

(a) Except as provided in subsection (i), for the first extension, the owner or operator must submit an application to modify the permit that includes the following:

(A) A detailed explanation of why the source could not commence construction within the initial 18-month period; and

(B) Payment of the simple technical permit modification fee in OAR 340-216-8020 Part 3.

(b) Except as provided in subsection (i), for the second extension, the owner or operator must submit an application to modify the permit that includes the following for the original regulated pollutants subject to Major NSR or Type A State NSR:

(A) A detailed explanation of why the source could not commence construction within the second 18-month period;

(B) A review of the original LAER or BACT analysis for potentially lower limits and a review of any new control technologies that may have become commercially available since the original LAER or BACT analysis;

(C) A review of the air quality analysis to address any of the following:

(i) All ambient air quality standards and PSD increments that were subject to review under the original application;

(ii) Any new competing sources or changes in ambient air quality since the original application was submitted;

(iii) Any new ambient air quality standards or PSD increments for the regulated pollutants that were subject to review under the original application; and

(iv) Any changes to EPA approved models that would affect modeling results since the original application was submitted, and

(D) Payment of the moderate technical permit modification fee plus the modeling review fee in OAR 340-216-8020 Part 4.

(c) Except as provided in subsection (i), the permit will be terminated 54 months after it was initially issued if construction does not commence during that 54 month period. If the owner or operator wants approval to construct beyond the termination of the permit, the owner or operator must submit an application for a new Major NSR or State NSR permit.

(d) If construction is commenced prior to the date that construction approval terminates, the permit can be renewed or the owner or operator may apply for a Title V permit as required in

OAR 340-218-0190;

(e) To request a construction approval extension under subsection (a) or (b), the owner or operator must submit an application to modify the permit at least 30 days but not more than 90 days prior to the end of the current construction approval period.

(f) Construction may not commence during the period from the end of the preceding construction approval to the time DEQ approves the next extension.

(g) DEQ will make a proposed permit modification available using the following public participation procedures in OAR chapter 340, division 209:

(A) Category II for an extension that does not require an air quality analysis; or

(B) Category III for an extension that requires an air quality analysis.

(h) DEQ will grant a permit modification extending the construction approval for 18 months from the end of the first or second 18-month construction approval period, whichever is applicable, if:

(A) Based on the information required to be submitted under subsection (a) or (b), DEQ determines that the proposed source will continue to meet NSR requirements; and

(B) For any extension, the area impacted by the source has not been redesignated to sustainment or nonattainment prior to the granting of the extension.

(i) If the area where the source is located is redesignated to sustainment or nonattainment before any extension is approved, the owner or operator must demonstrate compliance with the redesignated area requirements if the source is subject to Major or Type A State NSR for the redesignated pollutant, and must obtain the appropriate permit or permit revision before construction may commence. The new permit or permit revision under this subsection will be considered to start a new initial 18-month construction approval period.

(6) Approval to construct does not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state or federal law;

(7) Sources that are subject to OAR chapter 340, division 218, Oregon Title V Operating Permits, are subject to the following:

(a) Except as prohibited in subsection (b), approval to construct a source under an ACDP issued under OAR chapter 340, division 216 authorizes construction and operation of the source, until the later of:

(A) One year from the date of initial startup of operation of the source subject to Major NSR or State NSR; or

(B) If a timely and complete application for an Oregon Title V Operating Permit is

submitted, the date of final action by DEQ on the Oregon Title V Operating Permit application.

(b) Where an existing Oregon Title V Operating Permit prohibits construction or a change in operation, the owner or operator must obtain a Title V permit revision before commencing the construction, continuing the construction or making the change in operation.

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, 468A.025, 468A.035, 468A.040, 468A.050, 468A.055 & 468A.070
Statutes/Other Implemented: ORS 468A
History:
DEQ 9-2021, minor correction filed 07/01/2021, effective 07/01/2021
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1910
DEQ 26-1996, f. & cert. ef. 11-26-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 24-1994, f. & cert. ef. 10-28-94
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0230
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 13-1988, f. & cert. ef. 6-17-88
DEQ 18-1984, f. & ef. 10-16-84
DEQ 25-1981, f. & ef. 9-8-81

340-224-0520
Net Air Quality Benefit Emission Offsets: Requirements for Demonstrating Net Air Quality Benefit for Ozone Areas

When directed by the Major or State NSR rules, OAR 340-222-0042, or OAR 340-226-0400, the owner or operator must comply with this rule.

(1) Offsets for VOC and NOx are required if the source will be located within an ozone designated area or closer to the nearest boundary of an ozone designated area than the ozone impact distance as defined in section (2).

(2) Ozone impact distance is the distance in kilometers from the nearest boundary of an ozone designated area within which a source of VOC or NOx is considered to significantly affect that designated area. The determination of significance is made by either the formula method or the demonstration method.

(a) The Formula Method.

(A) For sources with complete permit applications submitted before Jan. 1, 2003: D = 30 km.

(B) For sources with complete permit applications submitted on or after Jan. 1, 2003: D = (Q/40) x 30 km.

(C) D is the ozone impact distance in kilometers. The value for D is 100 kilometers when D is calculated to exceed 100 kilometers. Q is the larger of the NOx or VOC emissions increase above the netting basis from the source being evaluated in tons per year.

(D) If a source is located closer than D from the nearest ozone designated area boundary, the source must obtain offsets under sections (3) and (4). If the source is located at a distance equal to or greater than D from the nearest ozone designated area boundary then the source is not required to obtain offsets.

(b) The Demonstration Method. An applicant may demonstrate to DEQ that the source or proposed source would not have a material effect on an ozone designated area other than attainment or unclassified areas. This demonstration may be based on an analysis of major topographic features, dispersion modeling, meteorological conditions, or other factors. If DEQ determines that the source or proposed source would not have a material effect on the designated area under high ozone conditions, the ozone impact distance is zero kilometers.

(3) The required ratio of offsetting emissions reductions from other sources (offsets) to the emissions increase from the proposed source or modification (emissions) and the location of sources that may provide offsets is as follows:

(a) For new or modified sources locating within an ozone nonattainment area, the offset ratio is 1.1:1 (offsets:emissions). These offsets must come from sources within either the same designated area as the new or modified source or from sources in another ozone nonattainment area with equal or higher nonattainment classification that contributes to a violation of the ozone ambient air quality standards in the same ozone designated area as the new or modified source.

(b) For new or modified sources locating within an ozone maintenance area, the offset ratio is 1.1:1 (offsets:emissions). These offsets may come from sources within either the maintenance area or from a source that is closer to the nearest maintenance area boundary than that source’s ozone impact distance.

(c) For new or modified sources locating outside the designated area not including attainment or unclassified areas, but closer than the ozone impact distance of the nearest boundary of the designated area, the offset ratio is 1:1 (offsets:emissions). These offsets may come from within either the designated area or from a source that is closer to the nearest maintenance area boundary than that source’s ozone impact distance.

(4) The amount of required offsets and the amount of provided offsets from contributing sources varies based on whether the proposed source or modification and the sources contributing offsets are located outside the ozone designated area other than attainment or

unclassified areas. The required offsets and the provided offsets are calculated using either the formula method or the demonstration method, as follows, except that sources located inside an ozone nonattainment area must use the formula method.

(a) The Formula Method.

(A) Required offsets (RO) for new or modified sources are determined as follows:

(i) For sources with complete permit applications submitted before January 1, 2003: RO = SQ; and

(ii) For sources with complete permit applications submitted on or after January 1, 2003: RO = (SQ minus (SD multiplied by 40/30)).

(B) Contributing sources may provide offsets (PO) calculated as follows: PO = CQ minus (CD multiplied by 40/30).

(C) Multiple sources may contribute to the required offsets of a new source. For the formula method to be satisfied, total provided offsets (PO) must equal or exceed required offsets (RO) by the ratio described in section (3).

(D) Definitions of factors used in paragraphs (A) (B) and (C):

(i) RO is the required offset of NOx or VOC in tons per year as a result of the source emissions increase. If RO is calculated to be negative, RO is set to zero.

(ii) SQ (source quantity) is the source's emissions increase of NOx or VOC in tons per year above the netting basis.

(iii) SD is the source distance in kilometers to the nearest boundary of the designated area except attainment or unclassified areas. SD is zero for sources located within the designated area except attainment or unclassified areas.

(iv) PO is the provided offset from a contributing source and must be equal to or greater than zero;

(v) CQ (contributing quantity) is the contributing source's emissions reduction in tons per year calculated as the contemporaneous pre-reduction actual emissions less the post-reduction allowable emissions from the contributing source (as provided in OAR 340-268-0030(1)(b)).

(vi) CD is the contributing source's distance in kilometers from the nearest boundary of the designated area except attainment or unclassified areas. For a contributing source located within the designated area except attainment or unclassified areas, CD equals zero.

(b) The Demonstration Method. An applicant may demonstrate to DEQ using dispersion modeling or other analyses the level and location of offsets that would be sufficient to provide actual reductions in concentrations of VOC or NOx in the designated area during

high ozone conditions as the ratio described in section (3). The modeled reductions of ambient VOC or NOx concentrations resulting from the emissions offset must be demonstrated over a greater area and over a greater period of time within the designated area as compared to the modeled ambient VOC or NOx concentrations resulting from the emissions increase from the source subject to this rule. If DEQ determines that the demonstration is acceptable, then DEQ will approve the offsets proposed by the applicant.

(c) Offsets obtained for a previous PSEL increase that did not involve resetting the netting basis can be credited toward offsets currently required for a PSEL increase.

(5) In lieu of obtaining offsets, the owner or operator may obtain an allocation at the rate of 1:1 from a growth allowance, if available, in an applicable maintenance plan.

NOTE: This rule was moved verbatim from OAR 340-225-0020(10) and (11) and OAR 340-225-0090(1) and amended on 04-16-15. Previous rule history for OAR 340-225-0020: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-6-03; Administrative correction 11-10-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 9-2005, f. & cert. ef. 9-9-05; 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. Previous rule history for OAR 340-225-0090: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 22-1989, f. & cert. ef. 9-26-89; 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 340-020-0260; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1970; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0111; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-224-0090 & 340-240-0260; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-6-03; Administrative correction 11-10-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 3-2007, f. & cert. ef. 4-12-07; 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 10-2012, f. & cert. ef. 12-11-12

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-020-0040.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050, 468A.055 & 468A.070
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15

340-224-0530
Net Air Quality Benefit Emission Offsets: Requirements for Demonstrating Net Air Quality Benefit for Non-Ozone Areas

(1) When directed by the Major or State NSR rules, OAR 340-222-0042, or OAR 340-226-0400, the owner or operator of the source must comply with sections (2) through (6), as applicable. For purposes of this rule, priority sources are sources identified under OAR 340-204-0320 for the designated area.

(2) The ratio of offsets compared to the source's potential emissions increase is 1.2:1 (offsets:emissions). If the offsets include offsets from priority sources, the ratio will be decreased by the offsets obtained from priority sources as a percentage of the source's potential emissions increase. For example, if the owner or operator obtains offsets from priority sources equal to 10% of its potential emissions increase, then the offset ratio is reduced by 0.10, to 1.1:1. In no event, however, will the offset ratio be less than 1.0:1, even if more than 20% of offsets are from priority sources.

(3) The ratio of offsets compared to the source's potential emissions increase is 1.0:1 (offsets:emissions), except as allowed by subsection (a) or required by subsection (b).

(a) For State NSR only, if the offsets include offsets from priority sources, the ratio will be decreased by the offsets obtained from priority sources as a percentage of the source's potential emissions increase. For example, if the owner or operator obtains offsets from priority sources equal to 20% of its potential emissions increase, then the offset ratio is reduced by 0.2, to 0.8:1. In no event, however, will the offset ratio be less than 0.5:1, even if more than 50% of offsets are from priority sources.

(b) In the Medford-Ashland AQMA, proposed new PM10 major sources or PM10 major modifications locating within the AQMA that are required to provide emission offsets under OAR 340-224-0060(2)(a) must provide reductions in PM10 emissions equal to 1.2 times the emissions increase over the netting basis from the new or modified source.

(4) Except as provided in sections (5) and (6), the owner or operator must conduct an air quality analysis of the impacts from the proposed new emissions and comply with subsections (a) and (b) using the procedures specified in subsections (c) through (e):

(a) Demonstrate that the offsets obtained result in a reduction in concentrations at a majority of modeled receptors within the entire designated area; and

(b) Comply with paragraph (A) or paragraphs (B):

(A) Demonstrate that the impacts from the emission increases above the source's netting basis are less than the Class II SIL at all receptors within the entire designated area; or

(B) Demonstrate that the impacts from the emission increases above the source's netting basis:

(i) Are less than the Class II SIL at an average of receptors within an area designated by DEQ as representing a neighborhood scale, as specified in 40 CFR part 58, Appendix D, a reasonably homogeneous urban area with dimensions of a few kilometers that represent air quality where people commonly live and work in a representative neighborhood, centered on the DEQ approved ambient monitoring sites; and

(ii) The impacts of emission increases or decreases since the date of the current area designation of all other sources within the designated area or having a significant impact on the designated area, are less than 10 percent of the AAQS at all receptors within the designated area;

(c) The air quality analysis must comply with OAR 340-225-0030 and 340-225-0040;

(d) The air quality analysis must use a uniform receptor grid over the entire modeled area for the analyses required in subsections (a) and (b). The spacing of the receptor grids will be determined by DEQ for each analysis;

(e) For the purpose of subsection (a) and paragraph (b)(B):

(A) Subtract the priority source offsets from the new or modified source's emission increase if the priority sources identified are area sources. Area source emissions are spatially distributed emissions that can be generated from activities such as, but not limited to, residential wood heating, unpaved road dust, and non-road mobile sources;

(B) If the source's emissions are not offset 100 percent by priority sources that are area sources, conduct dispersion modeling of the source's remaining emission increases after subtracting any priority source offsets allowed in subparagraph (A); and in addition, model all other sources with emission increases or decreases in or impacting the designated area since the date the area was designated, including offsets used for the proposed project, but excluding offsets from priority sources that are area sources; and

(C) If the source's emissions are offset 100 percent by priority sources that are area sources, no further analysis is required.

(5) Small scale local energy projects and any infrastructure related to that project located in the same area are not subject to the requirements in section (4) provided that the proposed source or modification would not cause or contribute to a violation of an ambient air quality standard or otherwise pose a material threat to compliance with air quality standards in a nonattainment area.

(6) Offsets obtained in accordance with OAR 340-240-0550 and 340-240-0560 for sources locating within or causing significant air quality impact on the Klamath Falls PM2.5 nonattainment or PM10 maintenance areas are exempt from the requirements of OAR 340-224-0510 and section (4) provided that the proposed major source or major modification would not cause or contribute to a new violation of the national ambient air quality standard. This exemption only applies to the direct PM2.5 or PM10 offsets obtained from residential wood-fired devices in accordance with 340-240-0550 and 340-240-0560. Any remaining emissions from the source that are offset by emission reductions from other sources are subject to the requirements of OAR 340-224-0510 or section (4), as applicable.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-020-0040.

Statutory/Other Authority: ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050,

468A.055 & 468A.070
Statutes/Other Implemented: ORS 468A
History:
DEQ 7-2015, f. & cert. ef. 4-16-15

Division 225
AIR QUALITY ANALYSIS REQUIREMENTS

340-225-0030
Procedural Requirements

When required to conduct an air quality analysis under this division:

(1) The owner or operator of a source must submit a modeling protocol to DEQ and have it approved before submitting a permit application.

(2) In addition to the requirements defined in OAR 340-216-0040 for permit applications, the owner or operator of a source must submit all information necessary to perform any analysis or make any determination required under this division. Such information may include, but is not limited to:

(a) Emissions data for all existing and proposed emission points from the source or modification. This data must represent maximum emissions for the averaging times by regulated pollutant consistent with the ambient air quality standards in OAR chapter 340, division 202.

(b) Stack parameter data, height above ground, exit diameter, exit velocity, and exit temperature, for all existing and proposed emission points from the source or modification;

(c) An analysis of the air quality and visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

(d) An analysis of the air quality and visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, that has occurred since the baseline concentration year in the area the source or modification would significantly affect; and

(3) An analysis of the air quality impacts for comparison to significant impact levels, PSD increments, and ambient air quality standards is not required for PM increases equal to or greater than the PM SER. If applicable, DEQ may require the owner or operator of a source to conduct speciation of PM and perform an analysis for PM10 and PM2.5.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-020-0040

Statutory/Other Authority: ORS 468.020 & 468A.070
Statutes/Other Implemented: ORS 468A

History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
Reverted to DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-225-0050
Requirements for Analysis in PSD Class II and Class III Areas

Modeling: For determining compliance with the AAQS, PSD increments, and other requirements in PSD Class II and Class III areas, the following methods must be used:

(1) For each regulated pollutant, a single source impact analysis is sufficient to show compliance with the AAQS and PSD increments if:

(a) The modeled impacts from emission increases equal to or greater than a SER above the netting basis due to the proposed source or modification being evaluated are less than the Class II significant impact levels specified in OAR 340-200-0020; and

(b) The owner or operator provides an assessment of factors that may impact the air quality conditions in the area to show that the SIL by itself ensures that the proposed source or modification will not cause or contribute to a new violation of an AAQS and PSD increment. The assessment must take into consideration but is not limited to the following factors:

(A) The background ambient concentration relative to the AAQS;

(B) The emission increases and decreases since the baseline concentration year from other sources that are expected to cause a significant concentration gradient in the vicinity of the source. Determination of significant concentration gradient may take into account factors including but not limited to ROI formula, spatial distribution of existing emission sources, topography, and meteorology.

(2) If the requirement in section (1) is not satisfied, the owner or operator of a proposed source or modification being evaluated must complete a competing source analysis as follows:

(a) For demonstrating compliance with the PSD Class II and III increments (as defined in OAR 340-202-0210), the owner or operator of the proposed source or modification must show that modeled impacts from the proposed increased emissions, above the modeled baseline concentration, plus competing PSD increment consuming source impacts above the modeled baseline concentration are less than the PSD increments for all averaging times; and

(b) For demonstrating compliance with the AAQS, the owner or operator of the source must show that the total modeled impacts plus total competing source impacts plus general background concentrations are less than the AAQS for all averaging times.

(3) The owner or operator of a source or modification must also provide an analysis of:

(a) The impairment to visibility, soils and vegetation that would occur as a result of the proposed source or modification, and general commercial, residential, industrial and other growth associated with the source or modification. As a part of this analysis, deposition modeling analysis is required for sources emitting heavy metals above the SERs as defined in OAR 340-200-0020. Concentration and deposition modeling may also be required for sources emitting other compounds on a case-by-case basis; and

(b) The air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

(4) Any analyses performed under this section must be done in compliance with OAR 340-225-0030 and 340-225-0040, as applicable.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-020-0040.]

Statutory/Other Authority: ORS 468.020 & 468A.070
Statutes/Other Implemented: ORS 468A
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DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11
Reverted to DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11
DEQ 1-2004, f. & cert. ef. 4-14-04
DEQ 11-2002, f. & cert. ef. 10-8-02
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

340-225-0070
Requirements for Demonstrating Compliance with Air Quality Related Values Protection

(1) Sources that are not federal major sources are exempt from the requirements of this rule.

(2) When directed by OAR chapter 340, division 224, the requirements of this rule apply to each emissions unit that increases the actual emissions of a regulated pollutant above the portion of the netting basis attributable to that emissions unit.

(3) DEQ must provide notice of permit applications involving AQRV analysis to EPA and Federal Land Managers as follows:

(a) If a proposed source or modification could impact air quality related values, including visibility, deposition, and ozone impacts within a Class I area, DEQ will provide written notice to the EPA and to the appropriate Federal Land Manager within 30 days of receiving such permit application. The notice will include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area air quality related values. DEQ will also provide at least 30 days' notice to EPA and the appropriate Federal Land Manager of any scheduled public hearings and preliminary and final actions

taken on the application;

(b) If DEQ receives advance notice of a permit application for a source that may affect Class I area visibility, DEQ will notify all affected Federal Land Managers within 30 days of receiving the advance notice;

(c) During its review of source impacts on Class I area air quality related values, pursuant to this rule, DEQ will consider any analysis performed by the Federal Land Manager that is received by DEQ within 30 days of the date that DEQ sent the notice required by subsection (a). If DEQ disagrees with the Federal Land Manager's demonstration, DEQ will include a discussion of the disagreement in the Notice of Public Hearing;

(d) As a part of the notification required in OAR 340-209-0060, DEQ will provide the Federal Land Manager an opportunity to demonstrate that the emissions from the proposed source or modification would have an adverse impact on air quality related values, of any federal mandatory Class I area. This adverse impact determination may be made even if there is no demonstration that a Class I PSD increment has been exceeded. If DEQ agrees with the demonstration, it will not issue the permit.

(4) Visibility impact analysis requirements:

(a) If division 224 requires a visibility impact analysis, the owner or operator must demonstrate that the potential to emit any regulated pollutant at a SER in conjunction with all other applicable emission increases or decreases, including secondary emissions, permitted since January 1, 1984 and other increases or decreases in emissions, will not cause or contribute to significant impairment of visibility on any Class I area.

(b) The owner or operator must conduct a visibility analysis on the Columbia River Gorge National Scenic Area if it is affected by the source;

(c) The owner or operator must submit all information necessary to perform any analysis or demonstration required by these rules.

(d) Determination of significant impairment: The results of the modeling must be sent to the affected Federal Land Managers and DEQ. The land managers may, within 30 days following receipt of the source's visibility impact analysis, determine whether or not significant impairment of visibility in a Class I area would result. DEQ will consider the comments of the Federal Land Manager in its consideration of whether significant impairment of visibility in a Class I area will result. If DEQ determines that significant impairment of visibility in a Class I area would result, it will not issue a permit for the proposed source or modification.

(5) In consultation with the Federal Land Managers under FLAG, DEQ may require a plume blight analysis or regional haze analysis, or both.

(6) Criteria for visibility impacts:

(a) The owner or operator of a source, where required by division 224, is encouraged to

demonstrate that its impacts on visibility satisfy the guidance criteria as referenced in the FLAG.

(b) If visibility impacts are a concern, DEQ will consider comments from the Federal Land Manager when deciding whether significant impairment will result. Emission offsets may also be considered. If DEQ determines that significant impairment of visibility in a Class I area would result, it will not issue a permit for the proposed source or modification.

(7) Deposition modeling is required for receptors in PSD Class I areas and the Columbia River Gorge National Scenic Area where visibility modeling is required. This may include, but is not limited to an analysis of nitrogen deposition and sulfur deposition.

(8) Visibility monitoring:

(a) If division 224 requires visibility monitoring data, the owner or operator must use existing data to establish existing visibility conditions within Class I areas as summarized in the FLAG Report.

(b) After construction has been completed the owner or operator must conduct such visibility monitoring if DEQ requires visibility monitoring as a permit condition to establish the effect of the regulated pollutant on visibility conditions within the impacted Class I area.

(9) Additional impact analysis: The owner or operator subject to OAR 340-224-0060(2) or 340-224-0070(3) must provide an analysis of the impact to visibility that would occur as a result of the proposed source or modification and general commercial, residential, industrial, and other growth associated with the source.

(10) If the Federal Land Manager recommends and DEQ agrees, DEQ may require the owner or operator to analyze the potential impacts on other Air Quality Related Values and how to protect them. Procedures from the FLAG report must be used in this recommendation. Emission offsets may also be used. If the Federal Land Manager finds that significant impairment of visibility in a Class I area would result from the proposed activities and DEQ agrees, DEQ will not issue a permit for the proposed source or modification.

(11) Any analyses performed under this section must be done in compliance with OAR 340-225-0030 and 340-225-0040, as applicable.

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

[NOTE: View a PDF of FLAG Phase I report by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

Statutory/Other Authority: ORS 468.020 & 468A.070
Statutes/Other Implemented: ORS 468A
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019

DEQ 134-2018, minor correction filed 04/11/2018, effective 04/11/2018
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-224-0110
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2000
DEQ 26-1996, f. & cert. ef. 11-26-96
DEQ 19-1993, f. & cert. ef. 11-4-93
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0276
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 14-1985, f. & ef. 10-16-85
DEQ 18-1984, f. & ef. 10-16-84

Division 226
GENERAL EMISSION STANDARDS

340-226-0100
Highest and Best Practicable Treatment and Control: Policy and Application

(1) As specified in OAR 340-226-0110 through 340-226-0140 and sections (2) and (3), DEQ will include appropriate conditions in permits to ensure that the highest and best practicable treatment and control of air contaminant emissions is in every case provided so as to maintain overall air quality at the highest possible levels, and to maintain contaminant concentrations, visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. The permit conditions must ensure that the degree of treatment and control provided must be such that degradation of existing air quality is minimized to the greatest extent possible.

(2) The EQC encourages the owner or operator of a source to further reduce emissions from the source beyond applicable control requirements where feasible.

(3) Nothing in OAR 340-226-0100 through 340-226-0140 revokes or modifies any existing permit term or condition unless or until DEQ revokes or modifies the term or condition by a permit revision.

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 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0600
DEQ 19-1993, f. 11-4-93 & cert. ef. 1-1-94
DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0001
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 37, f. 2-15-72, ef. 3-1-72

340-226-0130
Highest and Best Practicable Treatment and Control: Typically Achievable Control Technology (TACT)

TACT determinations will be based on information known to DEQ while considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control devices. DEQ may consider emission control technologies typically applied to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.

(1) Existing Sources. For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. An existing emissions unit must meet TACT for existing sources if:

(a) The emissions unit is not already subject to emission standards for the regulated pollutant under OAR chapter 340, divisions 224, 230, 234, 236 or 238, OAR 340-232-0010 through 340-232-0230, OAR 340-240-0110 through 340-240-0180, or OAR 340-240-0320 through 340-240-0430;

(b) The source is required to have a permit;

(c) The emissions unit has emissions of criteria pollutants equal to or greater than 5 tons per year of particulate or 10 tons per year of any gaseous pollutant; and

(d) DEQ determines that air pollution control devices and emission reduction processes in use for the emissions unit do not represent TACT, and that further emission control is necessary to address documented nuisance conditions, address an increase in emissions, ensure that the source is in compliance with other applicable requirements, or protect public health or welfare or the environment.

(2) New and Modified Sources. For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed. A new or modified emissions unit must meet TACT for new or modified sources if:

(a) The new or modified emissions unit is not subject to a control technology requirement based on Major NSR in OAR chapter 340, division 224, a Type A State NSR action under OAR chapter 340, division 224, an applicable Standard of Performance for New Stationary Sources in OAR chapter 340, division 238, OAR 340-240-0110 through 340-240-0180, OAR 340-240-320 through 340-240-0430, or any other standard applicable only to new or modified sources in OAR chapter 340, divisions 230, 234, 236, or 238 for the regulated pollutant emitted;

(b) The source is required to have a permit;

(c) The emissions unit:

(A) If new, would have emissions of any criteria pollutant equal to or greater than 1 ton per year in any area, or of PM10 equal to or greater than 500 pounds per year in a PM10 nonattainment area; or

(B) If modified, would have an increase in emissions from the permitted level for the emissions unit of any criteria pollutant equal to or greater than 1 ton per year in any area, or of PM10 equal to or greater than 500 pounds per year in a PM10 nonattainment area; and

(d) DEQ determines that the proposed air pollution control devices and emission reduction processes do not represent TACT.

(3) Before making a TACT determination, DEQ will notify the owner or operator of a source that it intends to make such a determination using information known to DEQ. The owner or operator of the source may supply DEQ with additional information by a reasonable date set by DEQ.

(4) The owner or operator of a source subject to TACT must submit, by a reasonable date established by DEQ, compliance plans and specifications for DEQ's approval. The owner or operator of the source must demonstrate compliance in accordance with a method and compliance schedule approved by DEQ.

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 & 468A
Statutes/Other Implemented: ORS 468.020 & 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0630
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 19-1993, f. 11-4-93 & cert. ef. 1-1-94

340-226-0140
Highest and Best Practicable Treatment and Control: Additional Control Requirements for Stationary Sources of Air Contaminants

In addition to other applicable requirements, DEQ may establish control requirements by permit if necessary as specified in sections (1) through (5):

(1) Requirements will be established to prevent violation of an ambient air quality standard caused or projected to be caused substantially by emissions from the source as determined by modeling, monitoring, or a combination thereof. Any air quality analysis must be conducted in accordance with the procedures in OAR chapter 340, division 225. For existing sources, DEQ may conduct monitoring or modeling or may require a source to conduct monitoring or modeling to determine whether the source’s emissions will cause or contribute to a new

exceedance of an ambient air quality standard.

(2) Requirements will be established to prevent significant impairment of visibility in Class I areas caused or projected to be caused substantially by a source as determined by modeling, monitoring, or a combination thereof. For existing sources, DEQ will conduct monitoring to confirm visibility impairment.

(3) A requirement applicable to a major source will be established if it has been adopted by EPA but has not otherwise been adopted by the EQC.

(4) An additional control requirement will be established if requested by the owner or operator of a source.

(5) Requirements will be established if necessary to protect public health or welfare for the following air contaminants and sources not otherwise regulated under OAR chapter 340, divisions 200 through 268:

(a) Chemical weapons; and

(b) Combustion and degradation by-products of chemical weapons.

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, 468A.025 & 468A.040
Statutes/Other Implemented: ORS 468A.025 & 468A.040
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 15-2001, f. & cert. ef. 12-26-01
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0640
DEQ 19-1993, f. 11-4-93 & cert. ef. 1-1-94

340-226-0210
Grain Loading Standards: Particulate Emission Limitations for Sources Other Than Fuel Burning Equipment, Refuse Burning Equipment and Fugitive Emissions

(1) This rule does not apply to the following:

(a) Fugitive emissions sources;

(b) Fuel burning equipment;

(c) Refuse burning equipment; or to

(d) Solid fuel burning devices certified under OAR 340-262-0500.

(2) No person may cause, suffer, allow, or permit particulate matter emissions from any air contaminant source in excess of the following limits:

(a) For sources installed, constructed, or modified before June 1, 1970:

(A) 0.10 grains per dry standard cubic foot if all representative compliance source test results collected prior to April 16, 2015, demonstrate that emissions are no greater than 0.080 grains per dry standard cubic foot;

(B) 0.15 grains per dry standard cubic foot if any representative compliance source test results collected prior to April 16, 2015 demonstrate that emissions are greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results; and

(C) In addition to the limits in paragraphs (A) and (B), for equipment or a mode of operation that is used less than 876 hours per calendar year, 0.20 grains per dry standard cubic foot.

(b) For sources installed, constructed, or modified on or after June 1, 1970 but prior to April 16, 2015:

(A) 0.10 grains per dry standard cubic foot if all representative compliance source test results prior to April 16, 2015 demonstrate that emissions are no greater than 0.080 grains per dry standard cubic foot; or

(B) 0.14 grains per dry standard cubic foot if any representative compliance source test results prior to April 16, 2015 are greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results; and.

(c) For sources installed, constructed or modified on or after April 16, 2015, 0.10 grains per dry standard cubic foot.

(3) Compliance with the emissions standards in section (2) is determined using:

(a) Oregon Method 5;

(b) DEQ Method 8, as approved by DEQ for sources with exhaust gases at or near ambient conditions;

(c) DEQ Method 7 for direct heat transfer sources [NOTE: DEQ Methods are described in the DEQ Source Sampling Manual published with OAR 340-200-0035]; or

(d) An alternative method approved by DEQ.

(e) For purposes of this rule, representative compliance source test results are data that was obtained:

(A) No more than ten years before April 16, 2015; and

(B) When a source is operating and maintaining air pollution control devices and emission

reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions based on the current configuration of the emissions unit and pollution control equipment.

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, 468A.025 & 468A.070
Statutes/Other Implemented: ORS 468A.025 & 468A.070
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DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0030
DEQ 3-1996, f. & cert. ef. 1-29-96
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 37, f. 2-15-72, ef. 3-1-72

Division 228
REQUIREMENTS FOR FUEL BURNING EQUIPMENT AND FUEL SULFUR CONTENT

340-228-0210
General Emission Standards for Fuel Burning Equipment: Grain Loading Standards

(1) This rule applies to fuel burning equipment, except solid fuel burning devices that have been certified under OAR 340-262-0500.

(2) No person may cause, suffer, allow, or permit particulate matter emissions from any fuel burning equipment in excess of the following limits:

(a) For sources installed, constructed, or modified before June 1, 1970:

(A) 0.10 grains per dry standard cubic foot if all representative compliance source test results collected prior to April 16, 2015 demonstrate emissions no greater than 0.080 grains per dry standard cubic foot;

(B) 0.15 grains per dry standard cubic foot if any representative compliance source test results collected prior to April 16, 2015 demonstrate that emissions greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results; and

(C) In addition to the limits in paragraphs (A) and (B), for equipment or a mode of operation (e.g., backup fuel) that is used less than 876 hours per calendar year, 0.20 grains per dry standard cubic foot.

(b) For sources installed, constructed, or modified on or after June 1, 1970 but prior to April 16, 2015:

(A) 0.10 grains per dry standard cubic foot if all representative compliance source test results prior to April 16, 2015 demonstrate that emissions are no greater than 0.080 grains per dry standard cubic foot; or

(B) 0.14 grains per dry standard cubic foot if any representative compliance source test results collected prior to April 16, 2015 demonstrate that emissions are greater than 0.080 grains per dry standard cubic foot, or if there are no representative compliance source test results;

(c) For sources installed, constructed or modified on or after April 16, 2015, 0.10 grains per dry standard cubic foot.

(d) For sources installed, constructed or modified before June 1, 1970, 0.17 grains per dry standard cubic foot if the owner or operator requested this alternative limit by no later than Oct. 1, 2019 and demonstrated, based on a signed report prepared by a registered professional engineer that specializes in boiler/multiclone operation, that the fuel burning equipment was unable to comply with the standard in subparagraph (a)(B).

(3) Compliance with the emissions standards in section (2) is determined using Oregon Method 5, or an alternative method approved by DEQ. [NOTE: Sampling methods are found in the DEQ Source Sampling Manual published with OAR 340-200-0035.]

(a) For fuel burning equipment that burns wood fuel by itself or in combination with any other fuel, the emission results are corrected to 12% CO2.

(b) For fuel burning equipment that burns fuels other than wood, the emission results are corrected to 50% excess air.

(c) For purposes of this rule, representative compliance source test results are data that was obtained:

(A) No more than ten years before April 16, 2015; and

(B) When a source is operating and maintaining air pollution control devices and emission reduction processes at the highest reasonable efficiency and effectiveness to minimize emissions based on the current configuration of the fuel burning equipment and pollution control equipment.

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, 468A.025 & 468A.070
Statutes/Other Implemented: ORS 468A.025 & 468A.070
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DEQ 1-2012, f. & cert. ef. 5-17-12
Reverted to DEQ 8-2007, f. & cert. ef. 11-8-07

DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0020
DEQ 3-1996, f. & cert. ef. 1-29-96
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 18-1982, f. & ef. 9-1-82
DEQ 6-1981, f. & ef. 2-17-81
DEQ 12-1979, f. & ef. 6-8-79
DEQ 16, f. 6-12-70, ef. 7-11-70

Division 232
EMISSION STANDARDS FOR VOC POINT SOURCES

340-232-0030
Definitions

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

(1) "Aerospace component" means the fabricated part, assembly of parts, or completed unit of any aircraft, helicopter, missile or space vehicle.

(2) "Air dried coating" means coatings which are dried by the use of air at ambient temperature.

(3) "Applicator" means a device used in a coating line to apply coating.

(4) "Bulk gasoline plant" means a gasoline storage and distribution facility which receives gasoline from bulk terminals by railroad car or trailer transport, stores it in tanks, and subsequently dispenses it via account trucks to local farms, businesses, and gasoline dispensing facilities.

(5) "Bulk gasoline terminal" means a gasoline storage facility which receives gasoline from refineries primarily by pipeline, ship, or barge, and delivers gasoline to bulk gasoline plants or to commercial or retail accounts primarily by tank truck.

(6) "Can coating" means any coating applied by spray, roller, or other means to the inside and/or outside surfaces of metal cans, drums, pails, or lids.

(7) "Carbon bed breakthrough" means the initial indication of depleted adsorption capacity characterized by a sudden measurable increase in VOC concentration exiting a carbon adsorption bed or column.

(8) "Certified storage device" means vapor recovery equipment for gasoline storage tanks as certified by the State of California Air Resources Board Executive Orders, copies of which are on file with DEQ, or which has been certified by other air pollution control agencies and approved by DEQ.

(9) "Class II hardboard paneling finish" means finishers which meet the specifications of Voluntary Product Standard PS-59-73 as approved by the American National Standards Institute.

(10) "Clear coat" means a coating which lacks color and opacity or is transparent and uses the undercoat as a reflectant base or undertone color.

(11) "Coating" means a material applied to a surface which forms a continuous film and is used for protective and/or decorative purposes.

(12) "Coating line" means one or more apparatus or operations which include a coating applicator, flash-off area, and oven or drying station wherein a surface coating is applied, dried, and/or cured.

(13) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at standard conditions.

(14) "Crude oil" means a naturally occurring mixture which consists of hydrocarbons and/or sulfur, nitrogen, and/or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.

(15) "Custody transfer" means the transfer of produced petroleum and/or condensate after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

(16) "Cutback asphalt" means a mixture of a base asphalt with a solvent such as gasoline, naphtha, or kerosene. Cutback asphalts are rapid, medium, or slow curing (known as RC, MC, SC), as defined in ASTM D2399.

(17) "Delivery vessel" means any tank truck or trailer used for the transport of gasoline from sources of supply to stationary storage tanks.

(18) "External floating roof" means a cover over an open top storage tank consisting of a double deck or pontoon single deck which rests upon and is supported by the volatile organic liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.

(19) "Extreme performance coatings" means coatings designed for extreme environmental conditions such as exposure to any one of the following: continuous ambient weather conditions, temperature consistently above 95°C, detergents, abrasive and scouring agents, solvents, corrosive atmosphere, or similar environmental conditions.

(20) "Extreme performance interior topcoat" means a topcoat used in interior spaces of aircraft areas requiring a fluid, stain or nicotine barrier.

(21) "Fabric coating" means any coating applied on textile fabric. Fabric coating includes the application of coatings by impregnation.

(22) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(23) "Freeboard ratio" means the freeboard height divided by the width (not length) of the degreaser's air/solvent area.

(24) "Forced air dried coating" means a coating which is dried by the use of warm air at temperatures up to 90°C (194°F).

(25) "Gas freed" means a marine vessel's cargo tank has been certified by a Marine Chemist as "Safe for Workers" according to the requirements outlined in the National Fire Protection Association Rule 306.

(26) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 27.6 kPa (4.0 psi) or greater which is used to fuel internal combustion engines.

(27) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle, boat, or airplane gasoline tanks from stationary storage tanks.

(28) "Gaseous service" means equipment which processes, transfers or contains a VOC or mixture of VOCs in the gaseous phase.

(29) "Hardwood plywood" is plywood whose surface layer is a veneer of hardwood.

(30) "High performance architectural coating" means coatings applied to aluminum panels and moldings being coated away from the place of installation.

(31) "Internal floating roof" means a cover or roof in a fixed roof tank which rests upon or is floating upon the petroleum liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.

(32) "Large appliance" means any residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dish washers, trash compactors, air conditioners, and other similar products.

(33) "Leaking component" means any petroleum refinery source which has a VOC concentration exceeding 10,000 parts per million (ppm) when tested in the manner described in EPA Method 21. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open-ended pipes. Excluded from these sources are valves which are not externally regulated.

(34) "Lightering" means the transfer of a liquid product identified in OAR 340-232-0110(1)(a) or (1)(b), as applicable, into a cargo tank from one marine tank vessel to another.

(35) "Liquid-mounted" means a primary seal mounted so the bottom of the seal covers the liquid surface between the tank shell and the floating roof.

(36) "Liquid service" means equipment which processes, transfers or contains a VOC or mixture of VOCs in the liquid phase.

(37) "Loading event" means the loading or lightering of a liquid product identified in OAR 340-232-0110(1)(a) or (1)(b), as applicable, into a marine tank vessel's cargo tank, or the loading of any product into a marine tank vessel's cargo tank where the prior cargo was a liquid product identified in OAR 340-232-0110(1)(a) or (1)(b), as applicable. The event begins with the connection of a marine tank vessel to a storage or cargo tank by means of piping or hoses for the transfer of a fuel product from the storage or cargo tank into the receiving marine tank vessel. The event ends with disconnection of the pipes and/or hoses upon completion of the loading process.

(38) "Marine tank vessel" means any marine vessel constructed or converted to carry liquid bulk cargo that transports a liquid product identified in OAR 340-232-0110(1)(a) or (1)(b), as applicable.

(39) "Marine terminal" means any facility or structure used to load or unload any fuel product cargo into or from marine tank vessels.

(40) "Marine vessel" means any tugboat, tanker, freighter, passenger ship, barge or other boat, ship or watercraft.

(41) "Maskant for chemical processing" means a coating applied directly to an aerospace component to protect surface areas when chemical milling, anodizing, aging, bonding, plating, etching and/or performing other chemical operations on the surface of the component.

(42) "Miscellaneous metal parts and products" means any metal part or metal product, even if attached to or combined with a nonmetal part or product, except cans, coils, metal furniture, large appliances, magnet wires, automobiles, ships, and airplane bodies.

(43) "Natural finish hardwood plywood panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

(44) "Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.

(45) "Oven dried" means a coating or ink which is dried, baked, cured, or polymerized at temperatures over 90°C (194°F).

(46) "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(47) "Paper coating" means any coating applied on paper, plastic film, or metallic foil to make certain products, including but not limited to adhesive tapes and labels, book covers, post cards, office copier paper, drafting paper, or pressure sensitive tapes. Paper coating includes the application of coatings by impregnation and/or saturation.

(48) "Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of petroleum, crude oil, or through redistillation, cracking, or reforming of unfinished petroleum derivatives. "Petroleum refinery" does not mean a re-refinery of used motor oils or other waste chemicals. "Petroleum refinery" does not include asphalt blowing or separation of products shipped together.

(49) "Pretreatment wash primer" means a coating which contains a minimum of 0.5% acid by weight for surface etching and is applied directly to bare metal surfaces to provide corrosion resistance and adhesion.

(50) "Prime coat" means the first of two or more films of coating applied in an operation.

(51) "Printed interior panels" means panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.

(52) "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage.

(53) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(54) "Reasonably available control technology" or "RACT" means the lowest emission limitation that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

(55) "Roll printing" means the application of words, designs and pictures to a substrate by means of hard rubber or steel rolls.

(56) "Sealant" means a coating applied for the purpose of filing voids and providing a barrier against penetration of water, fuel or other fluids or vapors.

(57) "Specialty printing" means all gravure and flexographic operations which print a design or image, excluding publication gravure and packaging printing. Specialty Printing includes printing on paper plates and cups, patterned gift wrap, wallpaper, and floor coverings.

(58) "Submerged fill" means any fill pipe or hose, the discharge opening of which is entirely submerged when the liquid is 6 inches above the bottom of the tank; or when applied to a tank which is loaded from the side, means any fill pipe, the discharge of which is entirely submerged when the liquid level is 18 inches, or is twice the diameter of the fill pipe, whichever is greater, above the bottom of the tank.

(59) "Thirty-day rolling average" means any value arithmetically averaged over any consecutive thirty days.

(60) "Tileboard" means paneling that has a colored waterproof surface coating.

(61) "Topcoat" means a coating applied over a primer or intermediate coating for purposes such as appearance, identification or protection.

(62) "True vapor pressure" means the equilibrium pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks," February, 1980.

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

(64) "Vapor-mounted" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the primary seal, the tank shell, the liquid surface, and the floating roof.

(65) "Vapor tight" means, as used in OAR 340-232-0110, a condition that exists when the concentration of a VOC, measured one centimeter from any source, does not exceed 10,000 ppm (expressed as methane) above background.

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

[NOTE: Publications referenced and not linked to below are available from the agency.]

[NOTE: View a PDF of referenced EPA Methods by clicking on "Tables" link following OAR 340-232-8010.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 15-2001, f. & cert. ef. 12-26-01
DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0102
DEQ 6-1999, f. & cert. ef. 5-21-99
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 9-1997, f. & cert. ef. 5-9-97
DEQ 6-1996, f. & cert. ef. 3-29-96
DEQ 13-1995, f. & cert. ef. 5-25-95
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 8-1991, f. & cert. ef. 5-16-91
DEQ 3-1986, f. & ef. 2-12-86
DEQ 23-1980, f. & ef. 9-26-80
DEQ 17-1979, f. & ef. 6-22-79
DEQ 21-1978, f. & ef. 12-28-78

340-232-0040
General Non-Categorical Requirements

(1) All existing sources operating prior to November 15, 1990, located inside the areas cited in OAR 340-232-0020(1)(a) or (1)(c), containing emissions units or devices for which no categorical RACT requirements exist and which can emit over 100 tons per year of VOC from aggregated, non-regulated emissions units, based on the design capacity or maximum production or throughput capacity of the source operating 8,760 hours per year without the use of control devices or limits on hours of operation, must have RACT requirements developed on a case-by-case basis by DEQ. Sources that have complied with NSR requirements per OAR chapter 340, division 224 and are subject to Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) requirements are presumed to have met RACT requirements.

(2) A source may request RACT not be applied or removed by demonstrating to DEQ that the aggregated, non-regulated emissions units are unable to emit more than 100 tons per year of VOC, based on the design capacity or maximum production or throughput capacity of the source operating 8,760 hours per year without the use of control devices.

(3) Within 3 months of written notification by DEQ of the applicability of this rule, or, for good cause shown, up to an additional three months as approved by DEQ, the source must submit to DEQ a complete analysis of RACT for each category of emissions unit at the source, taking into account technical and economic feasibility of available control technology, and the emission reductions each technology would provide. This analysis does not need to include any emissions units subject to a specific categorical RACT requirement under this division. These RACT requirements approved by DEQ will be incorporated in the source's Air Contaminant Discharge Permit, and will be effective upon approval by EPA as a source specific SIP revision. The source must comply with the applicable RACT requirements beginning one year from the date of notification by DEQ of EPA approval.

(4) Failure by a source to submit a RACT analysis required by section (2) does not excuse the source from the obligation to comply with a RACT determination established by DEQ.

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 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0104
DEQ 20-1998, f. & cert. ef. 10-12-98
Reverted to DEQ 13-1995, f. & cert. ef. 5-25-95
DEQ 7-1997(Temp), f. & cert. ef. 4-28-97
DEQ 13-1995, f. & cert. ef. 5-25-95
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 8-1991, f. & cert. ef. 5-16-91

DEQ 3-1986, f. & ef. 2-12-86
DEQ 23-1980, f. & ef. 9-26-80
DEQ 17-1979, f. & ef. 6-22-79
DEQ 21-1978, f. & ef. 12-28-78

340-232-0090
Bulk Gasoline Terminals Including Truck and Trailer Loading

(1) No terminal owner or operator, may allow VOCs to be emitted into the atmosphere in excess of 80 milligrams of VOC per liter of gasoline loaded from the operation of loading truck tanks, and truck trailers at bulk gasoline terminals with a daily throughputs of greater than 76,000 liters (20,000 gallons) per day of gasoline, determined by a thirty-day rolling average:

(a) The owner or operator of a gasoline loading terminal must only allow the transfer of gasoline between the facility and a truck tank or a truck trailer when a current leak test certification for the delivery vessel is on file with the terminal or a valid permit as required by OAR 340-232-0100(1)(c) is displayed on the delivery vessel;

(b) The owner or operator of a truck tank or a truck trailer must not make any connection to the terminal's gasoline loading rack unless the gasoline delivery vessel has been tested in accordance with OAR 340-232-0100(1);

(c) The truck driver or other operator who fills a delivery truck tank and/or trailer tank must not take on a load of gasoline unless the vapor return hose is properly connected;

(d) All equipment associated with the vapor balance system must be maintained to be vapor tight and in good working order.

(2) Compliance with section (1) must be determined by testing in accordance with Method 33 on file with DEQ. [NOTE: This Method is in the DEQ Source Sampling Manual published at OAR 340-200-0035.]The method for determining compliance with section (1) are delineated in 40 CFR part 60, subpart XX, §60.503.

(3) Bulk Gasoline terminals must comply with the following within the limits of section (1):

(a) All displaced vapors and gases during tank truck gasoline loading operations must be vented only to the vapor control system;

(b) The loading device must not leak when in use. The loading device must be designed and operated to allow no more than 10 cubic centimeters drainage per disconnect on the basis of 5 consecutive disconnects;

(c) All loading liquid lines must be equipped with fittings which make vapor-tight connections and which close automatically and immediately when disconnected;

(d) All vapor lines must be equipped with fittings which make vapor-tight connections and which close automatically and immediately when disconnected or which contain vapor tight

unidirectional valves;

(e) Gasoline must be handled in a manner to prevent its being discarded in sewers or stored in open containers or handled in any manner that would result in evaporation. If more than 5 gallons are spilled, the operator must report the spillage in accordance with OAR 340-214-0300 through 340-214-0350;

(f) The vapor balance system must be operated in a manner to prevent the pressure therein from exceeding the tank truck or trailer pressure relief settings.

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, 468A.025, 468A.050 & 468A.070
Statutes/Other Implemented: ORS 468A.025, 468A.050 & 468A.070
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0130
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 26-1995, f. & cert. ef. 12-6-95
DEQ 25-1994, f. & cert. ef. 11-22-94
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 8-1991, f. & cert. ef. 5-16-91, Sec. (2) & (3) Renumbered from 340-022-0133, 340-022-0136
DEQ 3-1986, f. & cert. ef. 2-12-86
DEQ 12-1981(Temp), f. & cert. ef. 4-29-81
DEQ 23-1980, f. & cert. ef. 9-26-80
DEQ 17-1979, f. & cert. ef. 6-22-79
DEQ 21-1978, f. & cert. ef. 12-28-78

340-232-0160
Surface Coating in Manufacturing

(1) No person may operate a coating line which emits into the atmosphere VOCs in excess of the limits in section (5), expressed as pounds VOC per gallon of coating applied, excluding water and exempt solvents, unless an alternative emission limit is approved by DEQ pursuant to section (3) or emissions are controlled to an equivalent level pursuant to section (7). If surface coating is performed but is not specifically listed in section (5), then that surface coating is subject to OAR 340-232-0040, if applicable.

(2) Exemptions:

(a) This rule does not apply to airplanes painted out of doors in open air; automobile and truck refinishing; customized top coating of automobiles and trucks, if production is less than 35 vehicles per day; marine vessels and vessel parts painted out in the open air; flat wood coating; wood furniture and wood cabinets; wooden doors, mouldings, and window frames; machine staining of exterior wood siding; high temperature coatings (for service above 500°

F.); lumber marking coatings; potable water tank inside coatings; high performance inorganic zinc coatings, air dried, applied to fabricated steel; and markings by stencil for railroad cars;

(b) This rule does not apply to:

(A) Sources whose VOC potential to emit before add on controls from activities identified in section (5) is less than 10 tons per year;

(B) Sources with VOC actual emissions before add on controls from activities identified in section (5) are less than 3 pounds per hour;

(C) Sources with VOC actual emissions before add on controls from activities identified in section (5) are less than 15 pounds per day; or

(D) Sources used exclusively for chemical or physical analysis or determination of product quality and commercial acceptance, such as research facilities, pilot plant operations, and laboratories, unless:

(i) The operation of the source is an integral part of the production process; or

(ii) The emissions from the source exceed 363 kilograms (800 pounds) in any calendar month.

(3) Exceptions:

(a) On a case-by-case basis, DEQ may approve exceptions to the emission limits specified in section (5), upon documentation by the source that an alternative emission limit would satisfy the federal criteria for RACT;

(b) Included in this documentation must be a complete analysis of technical and economic factors which:

(A) Prevent the source from using both compliance coatings and air pollution control devices; and

(B) Justify the alternative emission limit sought by the source.

(c) The alternative emission limit approved by DEQ will be incorporated into the source's Air Contaminant Discharge Permit, or Title V operating permit, and will be effective upon approval by EPA as a source specific SIP revision.

(4) Applicability: This rule applies to each coating line, which includes the application area, flashoff area, air and forced air dryer, and oven used in the surface coating of the parts and products in subsections (5)(a) through (j).

(5) Process and Limitation: These emission limitations must be based on a daily average except subsection (5)(e) must be based on a monthly average. If more than one emission limitation in this rule applies to a specific coating, then the most stringent emission limitation

must be applied:

(a) Can Coating:

(A) Sheet basecoat, exterior and interior, and over-varnish; two-piece can exterior, basecoat and over-varnish, 2.8 pounds/gallon;

(B) Two- and three-piece can interior and exterior body spray, two-piece can exterior end, spray or roll coat, 4.2 pounds/gallon;

(C) Three-piece can side-seam spray 5.5 pounds/gallon;

(D) End sealing compound 3.7 pounds/gallon;

(E) End Sealing Compound for fatty foods 3.7 pounds/gallon.

(b) Fabric Coating 2.9 pounds/gallon;

(c) Vinyl Coating 3.8 pounds/gallon;

(d) Paper Coating 2.9 pounds/gallon;

(e) Existing Coating of Paper and Film in the Medford-Ashland AQMA 55 pounds VOC per 1000 square yards of material per pass;

(f) Auto and Light Duty Truck Coating:

(A) Prime 1.9 pounds/gallon;

(B) Topcoat 2.8 pounds/gallon;

(C) Repair 4.8 pounds/gallon;

(g) Metal Furniture Coating 3.0 pounds/gallon;

(h) Magnet Wire Coating 1.7 pounds/gallon;

(i) Large Appliance Coating 2.8 pounds/gallon;

(j) Miscellaneous Metal Parts and Products:

(A) Clear Coatings 4.3 pounds/gallon;

(B) Forced Air Dried or Air Dried 3.5 pounds/gallon;

(C) Extreme Performance Coatings 3.5 pounds/gallon;

(D) Other Coatings, i.e., powder, oven dried, 3.0 pounds/gallon;

(E) High Performance Architectural Coatings 3.5 pounds/gallon.

(6) Compliance Determination: Compliance with this rule must be determined by testing in accordance with 40 CFR part 60 EPA Method 18, 24, 25, a material balance method, or an equivalent plant specific method approved by and on file with DEQ. The limit in section (1) of VOC in the coating is based upon an assumed solvent density, and other assumptions unique to a coating line; where conditions differ, such as a different solvent density, a plant specific limit developed pursuant to the applicable Control Technology Guideline document may be submitted to DEQ for approval.

(7) Reduction Method: Compliance with the emission limits of sections (3) and (5) must be achieved by:

(a) The application of low solvent content coating technology;

(b) An incineration system which oxidizes at least 90.0 percent of the non-methane VOCs entering the incinerator, VOC measured as total combustible carbon, to carbon dioxide and water; or

(c) An equivalent means of VOC removal. The equivalent means must be approved by DEQ and will be incorporated in the source's Air Contaminant Discharge Permit or Title V permit, and will be effective upon approval by EPA as a source-specific SIP revision. Other alternative emission controls approved by DEQ and allowed by EPA may be used to provide an equivalent means of VOC removal.

(8) Recordkeeping Requirements:

(a) A current list of coatings must be maintained which provides all the coating data necessary to evaluate compliance, including the following information, where applicable:

(A) Coating catalyst and reducer used;

(B) Mix ratio of components used;

(C) VOC content of coating as applied; and

(D) Oven temperature.

(b) Where applicable, a monthly record must be maintained indicating the type and amount of solvent used for cleanup and surface preparation;

(c) Such records must be retained and available for inspection by DEQ for a period of five years.

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

[NOTE: View a PDF of referenced EPA Methods by clicking on “Tables” link below OAR

340-232-8010.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.070
Statutes/Other Implemented: ORS 468A.025 & 468A.070
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
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DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0170
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 22-1996, f. & cert. ef. 10-22-96
DEQ 4-1993, f. & cert. ef. 3-10-93, Sec. (5) Renumbered from 340-022-0173
DEQ 8-1991, f. & cert. ef. 5-16-91
DEQ 3-1986, f. & cert. ef. 2-12-86
DEQ 23-1980, f. & cert. ef. 9-26-80
DEQ 17-1979, f. & cert. ef. 6-22-79
DEQ 21-1978, f. & cert. ef. 12-28-78

340-232-0170
Aerospace Component Coating Operations

(1) No owner or operator of an aerospace component coating facility may emit into the atmosphere VOCs in excess of the following limits, expressed as pounds VOC per gallon of coating applied, excluding water and exempt solvents, unless an alternative emission limit is approved by DEQ pursuant to section (4) or emissions to the atmosphere are controlled to an equivalent level pursuant to section (10):

(a) Primer — 2.9 pounds/gallon;

(b) Interior Topcoat — 2.8 pounds/gallon;

(c) Electric or Radiation Effect Coating — 6.7 pounds/gallon;

(d) Extreme Performance Interior Topcoat — 3.5 pounds/gallon;

(e) Fire Insulation Coating — 5.0 pounds/gallon;

(f) Fuel Tank Coating — 6.0 pounds/gallon;

(g) High Temperature Coating for conditions between 350° F. –500° F. — 6.0 pounds/gallon;

(h) Sealant — 5.0 pounds/gallon;

(i) Self-Priming Topcoat — 3.5 pounds/gallon;

(j) Topcoat — 3.5 pounds/gallon;

(k) Pretreatment Wash Primer — 3.5 pounds/gallon;

(l) Sealant Bonding Primer — 6.0 pounds/gallon;

(m) Temporary Protective Coating — 2.1 pounds/gallon;

(2) Exemptions: This rule does not apply to the following:

(a) The exterior of fully assembled airplanes painted out of doors, high temperature coatings (for conditions over 500° F.), adhesive bonding primer, flight test coatings, and space vehicle coatings;

(b) Sources whose potential to emit from activities identified in section (1) before add on controls of VOCs are less than ten tons per year (or 3 pounds VOC/hour or 15 pounds VOC/day actual);

(c) The use of separate coating formulations in volumes of less than 20 gallons per calendar year. No source may use more than a combined total of 250 gallons per calendar year of exempt coatings. Records of coating usage must be maintained as per section (8); or

(d) Sources used exclusively for chemical or physical analysis or determination of product quality and coating performance (such as research facilities and laboratories) unless:

(A) The operation of the source is an integral part of the production process; or

(B) The emissions from the source exceed 363 kilograms (800 pounds) in any calendar month.

(3) Exceptions:

(a) On a case-by-case basis, DEQ may approve exceptions to the emission limits specified in section (1), upon documentation by the source that an alternative emission limit would satisfy the federal criteria for RACT;

(b) Included in this documentation must be a complete analysis of technical and economic factors which:

(A) Prevent the source from using both compliance coatings and air pollution control devices; and

(B) Justify the alternative emission limit sought by the source.

(c) The alternative emission limit approved by DEQ will be incorporated into the source's Air Contaminant Discharge Permit and will be effective upon approval by EPA as a source-specific SIP revision.

(4) Applicability: This rule applies to each coating line, which includes the application area, flashoff area, air and forced air dryer, and oven used in the surface coating of aerospace components in subsections (1)(a) through (m) . If more than one emission limitation in this rule applies to a specific coating, then the most stringent emission limitation must be applied.

(5) Solvent Evaporation Minimization:

(a) Closed containers must be used for the storage or disposal of cloth or paper used for solvent surface preparation and cleanup;

(b) Fresh and spent solvent must be stored in closed containers;

(c) Organic compounds may not be used for the cleanup of spray equipment unless equipment is used to collect the cleaning compounds and to minimize their evaporation;

(d) Containers of coating, catalyst, thinner, or solvent may not be left open to the atmosphere when not in use.

(6) Stripper Limitations: No stripper may be used which contains more than 400 grams/liter (3.3 lbs./gal.) of VOC or which has a true vapor pressure of 1.3 kPa (0.19 psia) at actual usage temperature.

(7) Maskant for Chemical Processing Limitation: No maskant may be applied for chemical processing unless the VOC emissions from coating operations are reduced by 85 percent, or the coating contains less than 600 grams of VOC per liter (5.0 pounds/gallon) of coating excluding water, as applied.

(8) Compliance determination: Compliance with this rule must be determined by testing in accordance with 40 CFR part 60, Appendix A, Method 24 for determining the VOC content of the coating materials. Emissions from the coating processes and/or VOC emissions control efficiencies must be determined by testing in accordance with 40 CFR part 60, Appendix A, Method 18, 25, California Method ST-7, a material balance method, or an equivalent plant specific method approved by EPA and DEQ and on file with DEQ. The limit in section (1) of VOC in the coating is based upon an assumed solvent density, and other assumptions unique to a coating line; where conditions differ, such as a different solvent density, a plant specific limit may be submitted to DEQ and EPA for approval.

(9) Reduction Method: The emission limits of section (1) must be achieved by:

(a) The application of a low solvent content coating technology;

(b) A vapor collection and disposal system; or

(c) An equivalent means of VOC removal. The equivalent means must be approved by DEQ and will be incorporated in the source's Air Contaminant Discharge Permit or Title V Operating Permit, and will be effective upon approval by EPA as a source-specific SIP revision. Other alternative emission controls approved by DEQ and allowed by EPA may be used to provide an equivalent means of VOC removal.

(10) Recordkeeping Requirements:

(a) A current list of coatings must be maintained which provides all of the coating data necessary to evaluate compliance, including the following information, where applicable:

(A) A daily record indicating the mix ratio of components used; and

(B) The VOC content of the coating as applied.

(b) A monthly record must be maintained indicating the type and amount of solvent used for cleanup and surface preparation;

(c) A monthly record must be maintained indicating the amount of stripper used;

(d) Such records must be retained and available for inspection by DEQ for a period of five years.

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

[NOTE: View a PDF of California Test Methods by clicking on “Tables” link below.]

[NOTE: View a PDF of referenced EPA Methods by clicking on “Tables” link below OAR 340-232-8010.]

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

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.070
Statutes/Other Implemented: ORS 468A.025 & 468A.070
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0175
DEQ 20-1998, f. & cert. ef. 10-12-98
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 8-1991, f. & cert. ef. 5-16-91

Division 234
EMISSION STANDARDS FOR WOOD PRODUCTS INDUSTRIES

340-234-0010
Definitions

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

(1) "Baseline emissions rate" means a source's actual emissions rate during the baseline period, as defined in OAR 340-200-0020, expressed as pounds of emissions per thousand square feet of finished product, on a 1/8" basis.

(2) "BLS" means black liquor solids, dry weight.

(3) "Continuous monitoring" means instrumental sampling of a gas stream on a continuous basis, excluding periods of calibration.

(4) "Daily arithmetic average" means the average concentration over the twenty-four hour period in a calendar day, as determined by continuous monitoring equipment or reference method testing. Determinations based on EPA reference methods using the DEQ Source Sampling Manual consist of three separate consecutive runs having a minimum sampling time of sixty minutes each and a maximum sampling time of eight hours each. [NOTE: DEQ's Source Sampling Manual is published with OAR 340-200-0035; EPA Reference Methods are found at Appendix A to 40 C.F.R. Part 60.] The three values for concentration (ppm or grains/dscf) are averaged and expressed as the daily arithmetic average which is used to determine compliance with process weight limitations, grain loading or volumetric concentration limitations and to determine daily emission rate.

(5) "Dry standard cubic meter" means the amount of gas that would occupy a volume of one cubic meter, if the gas were free of uncombined water, at a temperature of 20° C. (68° F.) and a pressure of 760 mm of mercury (29.92 inches of mercury). The corresponding English unit is dry standard cubic foot.

(6) "Kraft mill" or "mill" means any industrial operation which uses for a cooking liquor an alkaline sulfide solution containing sodium hydroxide and sodium sulfide in its pulping process.

(7) "Lime kiln" means any production device in which calcium carbonate is thermally converted to calcium oxide.

(8) "Non-condensables" mean gases and vapors, contaminated with TRS compounds, from the digestion and multiple-effect evaporation processes of a mill.

(9) "Operations" includes plant, mill, or facility.

(10) "Other sources" as used in OAR 340-234-0200 through 340-234-0270 means sources of TRS emissions in a kraft mill other than recovery furnaces, lime kilns, smelt dissolving tanks, sewers, drains, categorically insignificant activities and wastewater treatment facilities including but not limited to:

(a) Vents from knotters, brown stock washing systems, evaporators, blow tanks, blow heat accumulators, black liquor storage tanks, black liquor oxidation system, pre-steaming vessels, tall oil recovery operations; and

(b) Any vent which is shown to contribute to an identified nuisance condition.

(11) "Production" as used in OAR 340-234-0200 through 340-234-0270 means the daily amount of air-dried unbleached pulp, or equivalent, produced during the 24-hour period each calendar day, or DEQ approved equivalent period, and expressed in air-dried metric tons (admt) per day. The corresponding English unit is air-dried tons (adt) per day;

(12) "Recovery furnace" means the combustion device in which dissolved wood solids are

incinerated and pulping chemicals recovered from the molten smelt. For OAR 340-234-0200 through 340-234-0270, this term includes a direct contact evaporator, if present.

(13) "Recovery system" means the process by which all or part of the cooking chemicals may be recovered, and cooking liquor regenerated from spent cooking liquor, including evaporation, combustion, dissolving, fortification, and storage facilities associated with the recovery cycle.

(14) "Smelt dissolving tank vent" means the vent serving the vessel used to dissolve the molten smelt produced by the recovery furnace.

(15) "Special problem area" means the formally designated Portland, Eugene-Springfield, and Medford AQMAs and other specifically defined areas that the EQC may formally designate in the future. The purpose of such designation will be to assign more stringent emission limits as may be necessary to attain and maintain ambient air standards or to protect the public health or welfare.

(16) "Tempering oven" means any facility used to bake hardboard following an oil treatment process.

(17) "Wigwam waste burner" means a burner which consists of a single combustion chamber, has the general features of a truncated cone, and is used for incineration of wastes.

[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 references to Total Reduced Sulfur.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0005, 340-025-0150, 340-025-0220, 340-025-0305, 340-025-0350, 340-025-0410
DEQ 15-1980, f. & ef. 5-23-80
DEQ 32, f. 11-23-71, ef. 12-15-71
DEQ 4-1995, f. & cert. ef. 2-17-95
DEQ 22-1991, f. & cert. ef. 11-13-91
DEQ 7-1979, f. & ef. 4-20-79
DEQ 132, f. & ef. 4-11-77
DEQ 26, f. 3-31-71, ef. 4-25-71
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 2-1990, f. & cert. ef. 1-24-90
DEQ 137, f. & ef. 6-10-77
DEQ 50, f. 2-9-73, ef. 3-1-73

DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 37, f. 2-15-72, ef. 3-1-72

340-234-0210
Kraft Pulp Mills: Emission Limitations

(1) Emission of Total Reduced Sulfur (TRS):

(a) Recovery Furnaces:

(A) The emissions of TRS from each recovery furnace placed in operation before January 1, 1969, may not exceed:

(i) 10 ppm as daily arithmetic average; and

(ii) 0.15 Kg/metric ton (0.30 pound/ton) of production as a daily arithmetic average;

(B) TRS emissions from each recovery furnace placed in operation after January 1, 1969, and before September 25, 1976, or any recovery furnace modified significantly after January 1, 1969, and before September 25, 1976, to expand production must be controlled such that the emissions of TRS may not exceed:

(i) 5 ppm as a daily arithmetic average; and

(ii) 0.075 Kg/metric ton (0.150 pound/ton) of production as a daily arithmetic average.

(b) Lime Kilns. This subsection applies to those sources where construction was initiated prior to September 25, 1976. Lime kilns must be operated and controlled such that emissions of TRS may not exceed:

(A) 20 ppm as a daily arithmetic average; and

(B) 0.05 Kg/metric ton (0.10 pound/ton) of production as a daily arithmetic average.

(c) Smelt Dissolving Tanks. TRS emissions from each smelt dissolving tank may not exceed 0.0165 gram/Kg BLS (0.033 pound/ton BLS) as a daily arithmetic average.

(d) Non-Condensables. Non-condensables from digesters, multiple-effect evaporators and contaminated condensate stripping must be continuously treated to destroy TRS gases by thermal incineration in a lime kiln or incineration device capable of subjecting the non-condensables to a temperature of not less than 650° C. (1,200° F.) for not less than 0.3 second. An alternate device meeting the above requirements must be available in the event adequate incineration in the primary device cannot be accomplished. Venting of TRS gases during changeover must be minimized but in no case may the time exceed one-hour.

(e) Other Sources:

(A) The total emission of TRS from other sources may not exceed 0.078 Kg/metric ton (0.156 pound/ton) of production as a daily arithmetic average;

(B) Miscellaneous Sources and Practices. If DEQ determines that sewers, drains, and anaerobic lagoons significantly contribute to an odor problem, a program for control will be required.

(2) Particulate Matter:

(a) Recovery Furnaces. The emissions of particulate matter from each recovery furnace stack may not exceed:

(A) 2.0 kilograms per metric ton (4.0 pounds per ton) of production as a daily arithmetic average;

(B) 0.30 gram per dry standard cubic meter (0.13 grain per dry standard cubic foot) as a daily arithmetic average; and

(C) Thirty-five percent opacity for a period or periods aggregating more than 30 minutes in any 180 consecutive minutes or more than 60 minutes in any 24 consecutive hours (excluding periods when the facility is not operating).

(b) Lime Kilns. The emissions of particulate matter from each lime kiln stack may not exceed:

(A) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average;

(B) 0.46 gram per dry standard cubic meter (0.20 grain per dry standard cubic foot) as a daily arithmetic average; and

(C) The visible emission limitations in section (4);

(c) Smelt Dissolving Tanks. The emission of particulate matter from each smelt dissolving tank vent may not exceed:

(A) A daily arithmetic average of 0.25 kilogram per metric ton (0.50 pound per ton) of production; and

(B) The visible emission limitations in section (4).

(d) Replacement of or modification or a rebuild of an existing particulate pollution control device for which a capital expenditure of 50 percent or more of the replacement cost of the existing device is required, other than ongoing routine maintenance, after July 1, 1988 will result in more restrictive standards as follows:

(A) Recovery Furnaces:

(i) The emission of particulate matter from each affected recovery furnace stack may not exceed 1.00 kilogram per metric ton (2.00 pounds per ton) of production as a daily arithmetic average; and

(ii) 0.10 gram per dry standard cubic meter (0.044 grain per dry standard cubic foot) as a daily arithmetic average.

(B) Lime Kilns:

(i) The emission of particulate matter from each affected lime kiln stack may not exceed 0.25 kilogram per metric ton (0.50 pound per ton) of production as a daily arithmetic average; and

(ii) 0.15 gram per dry standard cubic meter (0.067 grain per dry standard cubic foot) as a daily arithmetic average when burning gaseous fossil fuel; or

(iii) 0.50 kilogram per metric ton (1.00 pound per ton) of production as a daily arithmetic average; and

(iv) 0.30 gram per dry standard cubic meter 0.13 grain per dry standard cubic foot) as a daily arithmetic average when burning liquid fossil fuel.

(C) Smelt Dissolving Tanks. The emissions of particulate matter from each smelt dissolving tank vent may not exceed 0.15 kilogram per metric ton (0.30 pound per ton) of production as a daily arithmetic average.

(3) Sulfur Dioxide (SO2). Emissions of sulfur dioxide from each recovery furnace stack may not exceed a three-hour arithmetic average of 300 ppm on a dry-gas basis except when burning fuel oil. The sulfur content of fuel oil used must not exceed the sulfur content of residual and distillate oil established in OAR 340-228-0100 and 340-228-0110, respectively.

(4) Emissions from each kraft mill source, with the exception of the mill's emissions attributable to a recovery furnace, may not equal or exceed 20 percent opacity as a six minute average.

(5) Emissions from each kraft mill source with specific particulate emission limits included in this rule are exempt the grain loading emission limits in OAR chapter 340, division 226 and division 228 and the opacity limits in OAR chapter 340, division 208.

(6) New Source Performance Standards. New or modified sources that commenced construction after September 24, 1976, are subject to each provision of this rule and the New Source Performance Standards, 40 CFR part 60 subpart BB as adopted under OAR 340-238-0060, whichever is more stringent.

[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 references to Total Reduced Sulfur.].]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 8-2007, f. & cert. ef. 11-8-07

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0165
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 2-1990, f. & cert. ef. 1-24-90
DEQ 137, f. & ef. 6-10-77
DEQ 50, f. 2-9-73, ef. 3-1-73

Division 236
EMISSION STANDARDS FOR SPECIFIC INDUSTRIES

340-236-8010Hot Mix Asphalt Plants: Table-Process Weight Table

This rule contains the Process Weight Table.

[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

Statutory/Other Authority: ORS 468.020, 468A.025 & 468A.070
Statutes/Other Implemented: ORS 468A.025 & 468A.070
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 4-2018, minor correction filed 01/17/2018, effective 01/17/2018
DEQ 3-2018, minor correction filed 01/16/2018, effective 01/16/2018
DEQ 7-2015, f. & cert. ef. 4-16-15

OAR 340-236-8010
Process Weight Table

Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)	Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)
50	0.24	3400	5.44
100	0.46	3500	5.52
150	0.66	3600	5.61
200	0.85	3700	5.69
250	1.03	3800	5.77
300	1.20	3900	5.85
350	1.35	4000	5.93
400	1.50	4100	6.01
450	1.63	4200	6.08
500	1.77	4300	6.15
550	1.89	4400	6.22
600	2.01	4500	6.30
650	2.12	4600	6.37
700	2.24	4700	6.45
750	2.34	4800	6.52
800	2.43	4900	6.60
850	2.53	5000	6.67
900	2.62	5500	7.03
950	2.72	6000	7.37

OAR 340-236-8010
Process Weight Table

Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)	Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)
1000	2.80	6500	7.71
1100	2.97	7000	8.05
1200	3.12	7500	8.39
1300	3.26	8000	8.71
1400	3.40	8500	9.03
1500	3.54	9000	9.36
1600	3.66	9500	9.67
1700	3.79	10000	10.00
1800	3.91	11000	10.63
1900	4.03	12000	11.28
2000	4.14	13000	11.89
2100	4.24	14000	12.50
2200	4.34	15000	13.13
2300	4.44	16000	13.74
2400	4.55	17000	14.36
2500	4.64	18000	14.97
2600	4.74	19000	15.58
2700	4.84	20000	16.19
2800	4.92	30000	22.22
2900	5.02	40000	28.30

OAR 340-236-8010
Process Weight Table

Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)	Process Wt/hr (lbs)	Maximum Weight Discharge/hr (lbs)
3000	5.10	50000	34.30
3100	5.18	600000	40.00
3200	5.27	Or	
3300	5.36	More	

Division 238
NEW SOURCE PERFORMANCE STANDARDS

340-238-0030
Applicability

This division applies to stationary sources subject to 40 CFR Part 60 as adopted under OAR 340-238-0060.

Statutory/Other Authority: ORS 468A **Statutes/Other Implemented:** ORS 468 & 468A
History: DEQ 14-1999, f. & cert. ef. 10-14-99

340-238-0040
Definitions

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

(1) "Administrator" means the Administrator of the EPA or authorized representative.

(2) "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

(3) "Capital expenditures" means an expenditure for a physical or operational change to an existing facility that exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the December 1984 edition of Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.

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

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

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

(7) "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before 5/30/91 and has

accepted waste at any time since 11/08/87 or has additional design capacity available for future waste deposition.

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

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

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

(11) "Modification:"

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

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

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

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

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

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

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

(15) "Reference method" means any method of sampling and analyzing for an air pollutant as

specified in 40 C.F.R. Part 60.

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

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

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

Statutory/Other Authority: ORS 468.020
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 6-2017, f. & cert. ef. 7-13-17
DEQ 8-2015, f. & cert. ef. 4-17-15
DEQ 4-2013, f. & cert. ef. 3-27-13
DEQ 1-2011, f. & cert. ef. 2-24-11
DEQ 8-2009, f. & cert. ef. 12-16-09
DEQ 15-2008, f. & cert. ef 12-31-08
DEQ 13-2006, f. & cert. ef. 12-22-06
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 2-2005, f. & cert. ef. 2-10-05
DEQ 4-2003, f. & cert. ef. 2-06-03
DEQ 22-2000, f. & cert. ef. 12-18-00
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0510
DEQ 22-1998, f. & cert. ef. 10-21-98
DEQ 8-1997, f. & cert. ef. 5-6-97
DEQ 27-1996, f. & cert. ef. 12-11-96
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 17-1993, f. & cert. ef. 11-4-93
DEQ 4-1993, f. & cert. ef. 3-10-93
DEQ 24-1989, f. & cert. ef. 10-26-89
DEQ 17-1987, f. & ef. 8-24-87
DEQ 19-1986, f. & ef. 11-7-86
DEQ 15-1985, f. & ef. 10-21-85
DEQ 16-1984, f. & ef. 8-21-84
DEQ 17-1983, f. & ef. 10-19-83
DEQ 22-1982, f. & ef. 10-21-82
DEQ 97, f. 9-2-75, ef. 9-25-75

340-238-0070
Compliance

Compliance with standards set forth in this division shall be determined by performance tests

and monitoring methods as set forth in the Federal Regulation adopted by reference in OAR 340-238-0060.

Statutory/Other Authority: ORS 468 & 468A
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0800
Renumbered from 340-700-0000, DEQ 4-1993, f. & cert. ef. 3-10-93
Renumbered from 340-025-0540, DEQ 15-1985, f. & ef. 10-21-85
DEQ 97, f. 9-2-75, ef. 9-25-75

340-238-0080
More Restrictive Regulations

If at any time there is a direct conflict between this division or regional authority rules and the Federal Regulation (40 CFR, Part 60), the federal regulation applies. Direct conflict means that compliance with the state rule creates noncompliance with a federal regulation.

Statutory/Other Authority: ORS 468 & 468A
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0805
DEQ 22-1995, f. & cert. ef. 10-6-95
DEQ 17-1993, f. & cert. ef. 11-4-93
DEQ 15-1985, f. & cert. ef. 10-21-85, Renumbered from 340-025-0705
DEQ 97, f. 9-2-75, cert. ef. 9-25-75, Renumbered from 340-025-0545

Division 244
OREGON FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM

340-244-0040
General Provisions for Stationary Sources: List of Hazardous Air Pollutants

For purposes of this division the EQC adopts by reference the pollutants, including groups of substances and mixtures, listed in section 112(b), as Hazardous Air Pollutants (Table 1).

[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

Statutory/Other Authority: ORS 468.020 & 468A.025
Statutes/Other Implemented: ORS 468A.025
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2015, f. & cert. ef. 4-16-15
DEQ 13-2006, f. & cert. ef. 12-22-06
DEQ 2-2006, f. & cert. ef. 3-14-06
DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0130
DEQ 20-1997, f. & cert. ef. 9-25-97
DEQ 2-1996, f. & cert. ef. 1-2-96
DEQ 13-1993, f. & cert. ef. 9-24-93

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
75-07-0	Acetaldehyde
60-35-5	Acetamide
75-05-8	Acetonitrile
98-86-2	Acetophenone
53-96-3	2-Acetylaminofluorene
107-02-8	Acrolein
79-06-1	Acrylamide
79-10-7	Acrylic acid
107-13-1	Acrylonitrile
107-05-1	Allyl chloride
92-67-1	4-Aminobiphenyl
62-53-3	Aniline
90-04-0	o-Anisidine
1332-21-4	Asbestos
71-43-2	Benzene (including benzene from gasoline)
92-87-5	Benzidine
98-07-7	Benzotrichloride
100-44-7	Benzyl chloride
92-52-4	Biphenyl

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
117-81-7	Bis(2-ethylhexyl) phthalate (DEHP)
542-88-1	Bis(chloromethyl)ether
75-25-2	Bromoform
106-94-5	1-bromopropane (1-BP)
106-99-0	1,3-Butadiene
156-62-7	Calcium cyanamide
133-06-2	Captan
63-25-2	Carbaryl
75-15-0	Carbon disulfide
56-23-5	Carbon tetrachloride
463-58-1	Carbonyl sulfide
120-80-9	Catechol
133-90-4	Chloramben
57-74-9	Chlordane
7782-50-5	Chlorine
79-11-8	Chloroacetic acid
532-27-4	2-Chloroacetophenone
108-90-7	Chlorobenzene
510-15-6	Chlorobenzilate
67-66-3	Chloroform
107-30-2	Chloromethyl methyl ether
126-99-8	Chloroprene
1319-77-3	Cresols/Cresylic acid (isomers and mixture)
95-48-7	o-Cresol
108-39-4	m-Cresol
106-44-5	p-Cresol

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
98-82-8	Cumene
94-75-7	2,4-D, salts and esters
3547-04-4	DDE
334-88-3	Diazomethane
132-64-9	Dibenzofurans
96-12-8	1,2-Dibromo-3-chloropropane
84-74-2	Dibutylphthalate
106-46-7	1,4-Dichlorobenzene(p)
91-94-1	3,3-Dichlorobenzidene
111-44-4	Dichloroethyl ether (Bis(2-chloroethyl)ether)
542-75-6	1,3-Dichloropropene
62-73-7	Dichlorvos
111-42-2	Diethanolamine
121-69-7	N,N-Diethyl aniline (N,N-Dimethylaniline)
64-67-5	Diethyl sulfate
119-90-4	3,3-Dimethoxybenzidine
60-11-7	Dimethyl aminoazobenzene
119-93-7	3,3’-Dimethyl benzidine
79-44-7	Dimethyl carbamoyl chloride
68-12-2	Dimethyl formamide
57-14-7	1,1-Dimethyl hydrazine
131-11-3	Dimethyl phthalate
77-78-1	Dimethyl sulfate
534-52-1	4,6-Dinitro-o-cresol, and salts
51-28-5	2,4-Dinitrophenol
121-14-2	2,4-Dinitrotoluene
123-91-1	1,4-Dioxane (1,4-Diethyleneoxide)
122-66-7	1,2-Diphenylhydrazine
106-89-8	Epichlorohydrin (l-Chloro-2,3-epoxypropane)

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
106-88-7	1,2-Epoxybutane
140-88-5	Ethyl acrylate
100-41-4	Ethyl benzene
51-79-6	Ethyl carbamate (Urethane)
75-00-3	Ethyl chloride (Chloroethane)
106-93-4	Ethylene dibromide (Dibromoethane)
107-06-2	Ethylene dichloride (1,2-Dichloroethane)
107-21-1	Ethylene glycol
151-56-4	Ethylene imine (Aziridine)
75-21-8	Ethylene oxide
96-45-7	Ethylene thiourea
75-34-3	Ethylidene dichloride (1,1-Dichloroethane)
50-00-0	Formaldehyde
76-44-8	Heptachlor
118-74-1	Hexachlorobenzene
87-68-3	Hexachlorobutadiene
77-47-4	Hexachlorocyclopentadiene
67-72-1	Hexachloroethane
822-06-0	Hexamethylene-1,6-diisocyanate
680-31-9	Hexamethylphosphoramide
110-54-3	Hexane
302-01-2	Hydrazine
7647-01-0	Hydrochloric acid
7664-39-3	Hydrogen fluoride (Hydrofluoric acid)
123-31-9	Hydroquinone
78-59-1	Isophorone
58-89-9	Lindane (all isomers)
108-31-6	Maleic anhydride
67-56-1	Methanol
72-43-5	Methoxychlor

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
74-83-9	Methyl bromide (Bromomethane)
74-87-3	Methyl chloride (Chloromethane)
71-55-6	Methyl chloroform (1,1,1-Trichloroethane)
60-34-4	Methyl hydrazine
74-88-4	Methyl iodide (Iodomethane)
108-10-1	Methyl isobutyl ketone (Hexone)
624-83-9	Methyl isocyanate
80-62-6	Methyl methacrylate
1634-04-4	Methyl tert butyl ether
101-14-4	4,4-Methylene bis(2-chloroaniline)
75-09-2	Methylene chloride (Dichloromethane)
101-68-8	Methylene diphenyl diisocyanate (MDI)
101-77-9	4,4-Methylenedianiline
91-20-3	Naphthalene
98-95-3	Nitrobenzene
92-93-3	4-Nitrobiphenyl
100-02-7	4-Nitrophenol
79-46-9	2-Nitropropane
684-93-5	N-Nitroso-N-methylurea
62-75-9	N-Nitrosodimethylamine
59-89-2	N-Nitrosomorpholine
56-38-2	Parathion
82-68-8	Pentachloronitrobenzene (Quintobenzene)
87-86-5	Pentachlorophenol
108-95-2	Phenol
106-50-3	p-Phenylenediamine
75-44-5	Phosgene
7803-51-2	Phosphine

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
7723-14-0	Phosphorus
85-44-9	Phthalic anhydride
1336-36-3	Polychlorinated biphenyls (Aroclors)
1120-71-4	1,3-Propane sultone
57-57-8	beta-Propiolactone
123-38-6	Propionaldehyde
114-26-1	Propoxur (Baygon)
78-87-5	Propylene dichloride (1,2-Dichloropropane)
75-56-9	Propylene oxide
75-55-8	1,2-Propylenimine (2-Methyl aziridine)
91-22-5	Quinoline
106-51-4	Quinone
100-42-5	Styrene
96-09-3	Styrene oxide
1746-01-6	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79-34-5	1,1,2,2-Tetrachloroethane
127-18-4	Tetrachloroethylene (Perchloroethylene)
7550-45-0	Titanium tetrachloride
108-88-3	Toluene
95-80-7	2,4-Toluene diamine
584-84-9	2,4-Toluene diisocyanate
95-53-4	o-Toluidine
8001-35-2	Toxaphene (chlorinated camphene)
120-82-1	1,2,4-Trichlorobenzene
79-00-5	1,1,2-Trichloroethane
79-01-6	Trichloroethylene
95-95-4	2,4,5-Trichlorophenol
88-06-2	2,4,6-Trichlorophenol
121-44-8	Triethylamine

OAR 340-244-0040
Table 1
LIST OF HAZARDOUS AIR POLLUTANTS

CAS Number	Chemical Name
1582-09-8	Trifluralin
540-84-1	2,2,4-Trimethylpentane
108-05-4	Vinyl acetate
593-60-2	Vinyl bromide
75-01-4	Vinyl chloride
75-35-4	Vinylidene chloride (1,1-Dichloroethylene)
1330-20-7	Xylenes (isomers and mixture)
95-47-6	o-Xylenes
108-38-3	m-Xylenes
106-42-3	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds[1]
0	Glycol ethers[2]
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers[3]
0	Nickel Compounds
0	Polycyclic Organic Matter[4]
0	Radionuclides (including radon)[5]
0	Selenium Compounds

NOTE: *For all listings above that contain the word "compounds" and for glycol ethers, the following applies:* Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

*1 X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or $Ca(CN)_2$

*2 Glycol ethers include mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol $R-(OCH_2CH_2)_n-OR'$.

Where:

n = 1, 2, or 3;

R = alkyl C7 or less; or

R = phenyl or alkyl substituted

phenyl; R' = H, or alkyl C7 or

less; or

OR' consisting of carboxylic acid ester, sulfate, phosphate, nitrate, or sulfonate. Does not include ethylene glycol monobutyl ether (EGBE, 2-Butoxyethanol)(CAS No. 111-76-2).

*3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

*4 Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.

*5 A type of atom which spontaneously undergoes radioactive decay.

Division 245
CLEANER AIR OREGON

340-245-0060
Toxics Emissions Units

(1) TEU Designation. An owner or operator must designate TEUs in the same manner as the owner or operator designated emissions units listed in a source's operating or construction permit, if they are designated, unless the owner or operator requests a different designation in writing and DEQ approves that request in writing. The request for a new or a different TEU designation must be compatible with the following:

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

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

(c) Where multiple emissions-producing activities exhaust through a common opening, exhaust stack or emissions control device, all of these emissions producing activities may be considered a single TEU or may be considered separate TEUs;

(d) The list of TEUs should not be limited to what is listed in a source's operating or construction permit but should include all processes and activities that emit toxic air contaminants; and

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

(2) Aggregated TEUs.

(a) An owner or operator must designate the same TEUs as aggregated TEUs for all of the different types of risk: excess cancer risk, chronic noncancer risk and acute noncancer risk.

(b) An owner or operator may choose to assign risk from aggregated TEUs based on either:

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

(B) The modeled risk from the approved risk assessment.

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

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

(3) Exempt TEUs. A TEU is an exempt TEU if it meets the criteria in subsection (a) or (b):

(a) The owner or operator of the TEU has demonstrated that the TEU is not likely to materially contribute risk and DEQ approves such demonstration. The demonstration may include any information the owner or operator considers relevant, including but not limited to:

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

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

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

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

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

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

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

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

(D) Office activities;

(E) Food service activities;

(F) Janitorial activities;

(G) Personal care activities;

(H) Groundskeeping activities including, but not limited to, building painting and road and

parking lot maintenance;

(I) On-site laundry activities;

(J) On-site recreation facilities;

(K) Instrument calibration;

(L) Automotive storage garages;

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

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

(O) Temporary construction activities;

(P) Warehouse activities;

(Q) Accidental fires and fire suppression;

(R) Air vents from air compressors;

(S) Air purification systems;

(T) Continuous emissions monitoring vent lines;

(U) Demineralized water tanks;

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

(W) Electrical charging stations;

(X) Fire brigade training;

(Y) Instrument air dryers and distribution;

(Z) Fully enclosed process raw water filtration systems;

(AA) Electric motors;

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

(CC) Vacuum sheet stacker vents;

(DD) 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;

(EE) Log ponds;

(FF) Stormwater settling basins;

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

(HH) 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;

(II) Health, safety, and emergency response activities;

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

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

(LL) Non-contact steam condensate flash tanks;

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

(NN) Boiler blowdown tanks; and

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

(4) New or modified TEU requirements.

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

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

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

(B) Revise and update any materials submitted to date under OAR 340-245-0050 to include the new or modified TEU by a date certain.

(c) The owner or operator of a source that previously has been issued a Toxic Air Contaminant Permit Addendum or an operating permit in compliance with this division and that proposes to construct a new or modified TEU must follow the applicable procedures in paragraphs (c)(A) through (C) and must pay to DEQ all applicable specific activity fees under OAR 340-216-8020 Table 2 Part 4 and OAR 340-216-8030 Table 3.

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

(B) New or modified aggregated TEUs.

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

(ii) If the current aggregated TEUs are permitted at the modeled risk levels as specified in OAR 340-245-0060(2)(b)(B), the owner or operator may add the risk from the new or modified aggregated TEU to prior results from the latest risk assessment for the source rather than updating the entire risk assessment for the source.

(iii) The owner or operator must request approval of a new or modified aggregated TEU by submitting an application to modify its Toxic Air Contaminant Permit Addendum or operating permit as required under OAR 340-245-0100(8).

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

(C) New or modified significant TEUs.

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

(I) Information necessary to assess the risk from the new or modified significant TEU using any risk assessment procedure, Level 1 through Level 4, under OAR 340-245-0050(8) through (11). The owner or operator may add the risk from the new or modified TEU to prior results from the latest risk assessment for the source rather than updating the entire risk assessment for the source; and

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

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

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

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

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

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

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

Statutory/Other Authority: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.135, ORS 468A.337
Statutes/Other Implemented: 468.065, 468A.025, 468A.040, 468A.050, 468A.070, 468A.155, 468A.010, 468A.015, 468A.035, ORS 468A.335, ORS 468A.337
History:
DEQ 18-2021, amend filed 11/17/2021, effective 11/17/2021
DEQ 197-2018, adopt filed 11/16/2018, effective 11/16/2018

Air Quality Permitting Updates 2022: Response to Public Comment[1]

The proposed Minor New Source Review program was most controversial part of this proposed rulemaking package. DEQ received comments from environmental advocates in support and comments from industry in opposition. Based on that feedback, DEQ has decided that Minor New Source Review warrants more discussion, especially in light of the fact that the EPA is currently reviewing the rules for the Minor New Source Review programs across the country and considering options to strengthen the effectiveness of these programs. EPA held their first meeting on 10/27/22 to inform air agencies of their intent. DEQ is addressing part of EPA's requirements by requiring modeling to ensure that the National Ambient Air Quality Standards are protected. But DEQ learned there are more issues that must be addressed than originally anticipated, especially regarding public notice requirements due to Oregon statutory requirements. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements. Therefore, DEQ is removing the Minor New Source Review program from this proposed rulemaking at this time.

DEQ will revisit the Notice of Intent to Construct rules, which are tied to the proposed Minor New Source Review program, and are also tied to the permit modification rules, the combination of which can be confusing. And last but not least, DEQ must address Environmental Justice in a more meaningful way by addressing disparate impacts and equity issues in the future proposed rule adoption of the Minor New Source Review program.

Suggested Change #1: Track requested small increases in the PSEL and staff time to process due to elimination of Generic PSELs.

Description: DEQ should assess and keep track of how many such small increases in the PSEL are requested by sources that are now losing their Generic PSELs and the staff time to process these small PSEL increases.

Response: DEQ currently uses an internal database TRAACS (Tracking, Reporting and Administration of Air Contaminant Sources) to keep track of permitting actions. In the near future, DEQ will use Your DEQ Online instead. YDO will continue to enable DEQ to track permit actions, including how many small increases in PSEL are requested by permittees who no longer have Generic PSELs. If a permittee is permitted at capacity to emit, DEQ does not anticipate that many PSEL increases will be needed.

The Department of Administrative Services is currently changing how Oregon State agencies are conducting staff time accounting. Current time accounting software allows DEQ to track the time spent on permit modification applications, but not specify why the modification was conducted.

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 1

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[1] The format of the comments and responses is different where there are multiple parts to a category of similar comments. These have been separated into individual comments with responses immediately following for easier reading.

Suggested Change #2: Acknowledge DEQ has had short-term standards for SO_2 for years but not a 1-hour standard.

Description: It should be noted that DEQ has had short-term standards for SO_2 in the rules for years, but not a 1-hour standard.

Response: The staff report that will accompany the proposed rules when presented to the Environmental Quality Commission will be changed to note that there have been other short-term NAAQS but not 1-hour standards.

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 1

Suggested Change #3: Inability to call in for public hearing and confusion on comment period deadline

Description: I was verbally told since by Jill Inahara that the comment period has been extended to 8/1/22. DEQ should reach out to other stakeholders to see if others were unable to call in or zoom into the hearing and understand when the comment submittal date is. If more than 10 stakeholders were unable to attend the 6/27/22 hearing due to technical problems, DEQ may have to hold a second hearing.

Response: DEQ did not receive any communications from anyone else regarding the inability to call in for the public hearing.

The public notice document has been update to show the notice period has been extended to August 1, 2022.

Response Type: no agency action required

Comment IDs linked to this Suggested Change: 1

Suggested Change #4: Choose Option 1 for minor source Significant Emission Rate

Description: The proposed rules will establish minor source SERs from which to evaluate smaller emission increases via modeling to demonstrate compliance with the NAAQS. This is necessary and the proposed rulemaking offered two options on the level of emissions that should constitute the minor source SERs. I don't know how these emission levels were arrived at or whether other states have a similar program or minor source SERs. In order to err on the side of the environment, I believe that Option 1 should be adopted and implemented. This would require more sources to undergo modeling, thereby being more protective of the environment. From my previous experience with modeling, I suspect that $PM_{2.5}$ will be the hardest NAAQS to comply with in the future due to its stringency.

We strongly support the proposed rule change to create a new, lower significant emission rate (SER) for minor sources that triggers a requirement for minor sources to undergo Minor New Source Review and the air quality analysis and technology review that the program involves.

Prior to this rule change, Oregon's air permit rules allowed regulated sources, including minor sources, to increase their emissions up to the previous significant emission rates—which are outdated (see supra § I(A))—without a permit modification and without performing air quality analysis to determine what impact the increase would have on the National Ambient Air Quality Standards (NAAQS).

We support Option #1 for what the Minor Source SER should be:

- NO_x: 5 tpy
- PM_{10}: 2 tpy
- Direct $PM_{2.5}$: 2 tpy
- SO_2: 5 tpy2

Even relatively small increases in air pollution can have a devastating cumulative impact on already overburdened environmental justice communities. The Minor Source Significant Emission Rates in Option #1 will best equip DEQ to protect ambient air quality and community health against acute exposure to spikes in pollution by allowing DEQ to evaluate smaller but potentially significant emissions increases.

Option #1 for the Minor Source SERs is also a good threshold for requiring minor sources to conduct a technology review. We support the rule changes that will require sources increasing emissions above these levels to analyze the available technology to ensure that sources seize all available opportunities to mitigate the impact of the modification on the public and the environment. See infra § II(D) (Minor Source Emission Reduction Technology, MSERT). The Option #1 threshold for requiring minor sources to conduct a technology review would make Oregon one of the leading states in capitalizing on new technology.

Response: DEQ decided to propose the Minor New Source Review program in a future rulemaking. EPA is currently reviewing existing Minor New Source Review programs across the country to identify best practices to strengthen the effectiveness of state Minor New Source Review programs. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements.

The future rulemaking also provides DEQ time to address staffing shortages and training needs for new staff. DEQ is committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions in communities that are underserved and overburdened with a disproportionate impact from pollution levels.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 1, 6, 9, 22

Suggested Change #5: Do not duplicate submittal of corrections or revisions to construction plans and specifications in the rules

Description: The Statement of Need indicates that the proposed rules would require a source to notify DEQ of any corrections or revisions to construction plans and specifications upon becoming aware of the changes and that

this is a new requirement. It is not a new requirement and such language has always existed in OAR 340-210-0230(3). The proposed rules add similar language at OAR 340-210-0240(2) although the verbiage is not exactly the same in the two locations. The language should be identical.

Response: OAR 340-210-0230(3) requires DEQ notification of corrections or revisions to construction plans and specifications. OAR 340-210-0240(2) requires owners or operators to construct and operate in accordance with DEQ approved plans and specifications, and any corrections and revisions. These are two different requirements.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 1

Suggested Change #6: Require notification of "significant" changes to approved construction plans

Description: The problem with either language is that it states "any" correction or revision. It should probably say something like "significant". For example, if a Torit baghouse was approved, does use of a Wheelabrator baghouse constitute a revision which the source must notify DEQ before proceeding any further with construction? The use of the word "any" can be a slippery slope. In addition, the rules don't seem to indicate what happens after a source notifies DEQ that a revision is desired. It would seem like the expanded Notice of Completion language of OAR 340-210-0240(5) could cover these "insignificant" construction changes.

Response: DEQ agrees that notification of “any” corrections and revisions to the plans and specifications may be too inclusive. Therefore, DEQ added language to specify that notification is required for any corrections and revisions “that would impact emissions.”

DEQ has also added proposed language that if the correction or revision changes the type of NC, the applicant must submit the appropriate application.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 1

Suggested Change #7: Do not change LUCS requirements

Description: I was unsure when reading OAR 340-210-0230(1)(o) whether a new LUCS is required for all new construction. This seems to be a significant change from past DEQ practices where a LUCS was only submitted if required by the local land use planning agency. The new rules will require sources to possibly spend considerable time in getting a LUCS approved for minor construction projects. Any delays by the local planning agency would delay submittal and DEQ approval.

OAR 340-210-0230(1)(o)(B)

The proposed addition of section (B) requiring a source and DEQ to perform an artificially created Land Use Compatibility analysis is excessive and unnecessary. If the local planning jurisdiction does not require a review, which in itself constitutes approval, then recognition that there is no need to review the project is by default, an approval. The same applies for the planning jurisdiction declining to review the application. That in itself is acknowledgment by the planning jurisdiction that review is unnecessary. NWPPA opposes the addition of this section to the rules.

Response: DEQ is charged with ensuring Notice of Intent to Construct applications and Air Contaminant Discharge Permit applications comply with statewide planning goals before issuance or approval. This requirement originates in ORS 197.180, which also establishes the requirement for the Department of Land Conservation and Development to collect, review, and approve State Agency Coordination plans from certain state agencies (OAR 660-030 and 660-031). DEQ is required to submit a State Agency Coordination plan to DLCD explaining how NC and ACDP approvals/issuance will comply with statewide planning goals. The State Agency Coordination plan is the basis for which the Environmental Quality Commission approved adoption of the rules in OAR 340-018, which prescribe the procedures DEQ uses in determining statewide planning goal compliance and land use compliance.

The NC section of the State Agency Coordination plan states: "The permit applicant is required to submit a Land Use Compatibility Statement, or LUCS, which contains the local government's determination of land use compatibility with the NC application. A LUCS is not required in cases where pollution control equipment is being added or substituted to an existing source and there is no operational change." DEQ notes that the requirement for the applicant to provide a LUCS does not always require the applicant to request a new LUCS from the local government. Where a previously issued LUCS clearly encompasses the construction being proposed in the NC, the applicant may provide that LUCS to DEQ. The applicant will need to request a new LUCS from the local government only in cases where the previously issued LUCS does not clearly cover or contemplate such new construction.

The proposed addition of paragraph OAR 340-210-0230(1)(o)(B) is for situations in which a LUCS cannot be approved, submitted, or otherwise obtained. The owner or operator must provide DEQ with its own analysis to demonstrate that the application or construction or modification notice complies with all statewide planning goals and provisions of the local jurisdiction’s acknowledged comprehensive plan. Division 18 identifies the alternative procedures in OAR 340-018-0040(3):

> The Department shall assure statewide goal compliance when necessary through the adoption of findings pursuant to OAR 660-030-0065(3) through the following process:
>
> (a) The identification of applicable goals;
> (b) Request for advice from DLCD or the Attorney General’s office when necessary;
> (c) Consultation with the affected local government; and
> (d) The adoption of necessary findings.

DEQ did not change the proposed rules as a result of this comment.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 1, 19

Suggested Change #8: Clarify that Type 1 NCs do not require fees

Description: I agree with the imposition of fees for Type 2 construction changes and the removal of the 10 day default approval clause for Type 1 construction changes. OAR 340-210-0230(1) indicates that any person proposing a Type 1 or 2 change must provide notice and applicable fees. However, there is no fee for Type 1 changes. Rewording this sentence could make that clearer to sources.

Response: The rule language says "applicable fees." Since Type 1 changes do not require fee payment, there are not applicable fees.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 1

Suggested Change #9: GHG threshold that requires a Standard ACDP

Description: Part C of OAR 340-216 lists sources and emission thresholds for a Standard ACDP. #5 has a GHG exception. Is there a GHG threshold that requires a Standard ACDP?

Response: There is no greenhouse gas threshold that requires a Standard ACDP. GHG permitting requirements are the result of Prevention of Significant Deterioration for GHGs under OAR 340-224-0070 if the owner or operator is first subject to OAR 340-224-0070 for a pollutant other than GHGs.

Response Type: no agency action required

Comment IDs linked to this Suggested Change: 1

Suggested Change #10: Eliminate Part 2b of OAR 340-216-8020 as 6/30/22 has passed.

Description: Part 2b of OAR 340-216-8020 should be eliminated as the 6/30/22 date has passed.

Response: Public notice for this proposed rulemaking began on May 27, 2022 so Part 2b of OAR 340-216-8020 was not eliminated in the proposed rules. Since that date has now passed, Part 2b or OAR 340-216-8020 can be removed from the proposed rules.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 1

Suggested Change #11: Update guidance on specific activity fees

Description: Part 4 of OAR 340-216 contains specific activity fees for permit modifications and lists five levels of fees depending upon the complexity of the modification. These levels have always been somewhat subjective in the past and usually left to the permit writer to determine. I am confident there has not been consistency in their determination across DEQ. I believe these levels were further defined in a Program Implementation Guidance (PIG) document years ago. This guidance should be reviewed and updated and a more detailed explanation of what comprises each of these levels should be placed in rule rather than guidance.

Response: OAR 340-216-0030 includes examples of the types of actions or changes that are expected to be included in each type of permit modification. In many cases the type of modification proposed will fit into one of these examples or clearly be appropriately categorized as one or the other.

DEQ agrees that there is room for additional clarification, but believes the most appropriate avenue to provide significant clarification is via an internal management directive because of the countless different invoicing scenarios that would be difficult to capture in rule. DEQ is working on an update to the Internal Management Directive "Invoicing Guidance for ACDP and Title V Permits." This update will clarify when the specific activity fees should apply.

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 1

Suggested Change #12: Require short-term PSELs or short-term limits for short-term NAAQS compliance

Description: The language in OAR 340-222-0042(1) should be modified since there will now be minor source SERs effective throughout the state. I believe that short-term PSELs should now be required in all permits due to the short term NAAQS. When placed in a permit, the short-term PSELs should be expressed in the same time frame as the short term NAAQS. At one time DEQ did have hourly or daily PSELs in all permits, but I believe the SPPIT rule making in 2001 removed that requirement, except for the Medford area.

In addition to DEQ's shift away from Generic PSELs in Simple and Standard ACDPs, we support DEQ's proposal to include additional permit limits beyond the annual PSEL to ensure sources are operating within the parameters used to model and demonstrate NAAQS compliance. See (Proposed) OAR 340-216-0064(3)(c) (Simple permits); (Proposed) OAR 340-216-0066(3)(c) (Standard permits). Adding additional permit limits on inputs used to calculate the PSEL will provide DEQ with the necessary means to enforce the NAAQS. As DEQ acknowledged during the rulemaking process, annual tons per year limits on emissions are insufficient to ensure that short-term NAAQS are not exceeded. The same annual emissions from a source can have a very different impact on frontline communities depending on the rate of those emissions. As such, it is critical that DEQ have the authority to include additional permit limits to ensure NAAQS compliance and to protect community health from dangerous short-term pollution spikes.

Response: Permit conditions to ensure compliance with the short-term NAAQS may not result in short-term PSELs, especially if individual pieces of equipment contribute the most to the modeled concentrations. DEQ will include permit conditions, such as production limits, limits on hours of operation, etc., to ensure the short-term NAAQS are protected.

Compliance with short-term NAAQS will be source-specific. DEQ believes the most efficient, effective, and appropriate approach to establishing these limits is to allow the source to make decisions regarding how they prefer to remain in compliance (e.g., limit unit #1's hours of operation per day and limit production process #2's input/output per day).

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 1, 4, 22

Suggested Change #13: Lower the natural gas fired equipment grain loading standard to 0.05 gr/dscf

Description: OAR 340-226-0210 and OAR 340-228-0210 contain grain loading standards for various types of equipment depending on the date of installation. These rules were modified in the 2015 Kitchen Sink rule making to require reduced limits depending on representative compliance source test results, as that term is defined in those divisions. However, most natural gas fired devices have not required previous testing by DEQ such that any natural gas fired boiler now receives a 0.14 gr.dscf limit. The limit for natural gas combustion devices should be set at least as stringent as the 0.08 gr/dscf limit in these rules, and I would propose that all natural gas fired equipment have a 0.05 gr/dscf limit. Boiler MACT has now required all boilers to have periodic tuneups and this level of emission is easily achievable by natural gas fired units.

Response: DEQ did not discuss lowering the grain loading limit for natural gas fired units with the Rules Advisory Committee and did not include any proposed rule language.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 1

Suggested Change #14: Change the "representative source test results" to include those after April 16, 2015

Description: The "representative source test results" are defined as those obtained no more than 10 years prior to April 16, 2015. Under the current rules, no tests after this date can be considered. It would seem prudent to modify the rules to allow the use of more recent source test data to further reduce the grain loading limit for a source so that no backsliding could occur if that source has reduced emission levels since 2015.

Response: If DEQ uses the most recent 10 years to define "representative source test results," the grain loading could change between 0.10 grains per dry standard cubic foot and 0.15 grains per dry standard cubic foot, depending on the results of the source test. This would be hard for permittees and DEQ to track, making compliance more difficult.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 1

Suggested Change #15: Allow paper copy submittal of permit applications

Description: Applications for permits must now be one copy in electronic format. This might be hard for some sources to accomplish. I would propose that the rules be modified to allow a source to request that they provide a hard copy as an alternative. I thought that under the record keeping rules that all agencies are subject to that a hard copy is the basis for all records. Maybe those rules have changed.

Response: In the near future, all permitted sources will use Your DEQ Online for all submittals: applications, reports, etc. In very limited cases (e.g., perchloroethylene dry cleaners may be allowed to submit paper annual reports because they are shared with the Materials Management program using multilingual forms), sources may be allowed to submit paper copies of reports. A provision to submit something other than an electronic copy, as allowed by a permit condition, will be included in the proposed rules.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 1

Suggested Change #16: Consider air, water and food in rulemaking

Description: The air we breathe, the water we drink and the food we eat should be the primary concerns of every environmental agency in planning and implementation of rulings that affect us all.

Response: DEQ's mission is to be a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water. The Oregon DEQ is a regulatory agency whose job is to protect and enhance the quality of Oregon's environment. In support of that mission, DEQ develops and implements a wide range of pollution controls, including regulating air pollution from the industry and transportation.

Most air pollution comes from everyday activities. About 90% of air pollution is generated from these everyday activities such as taking a shower, using hair spray or gel, taking the bus or driving to school or work, eating a charbroiled hamburger (lighter fluid), driving home, doing chores (mowing the lawn, painting your house, cleaning your windows), driving to soccer practice, etc. Cars and trucks are the number one source of air pollution in Oregon. Less than 10% is created from industry but people who live, work or learn nearby experience localized impacts from these industries.

Any business or industry (e.g., source) that emits or has the potential to emit pollutants into the air may be required to obtain an air permit from DEQ. DEQ issues permits for new sources, for existing sources, and for sources that are undergoing a modification to industrial processes. The proposed rules may result in reductions in air pollution from industrial sources, which would improve air quality.

Response Type: DEQ agrees. No changes to the rules were needed

Comment IDs linked to this Suggested Change: 2

Suggested Change #17: Update permit system to be more protective of human health with penalties for violations

Description: I am writing to urge OR DEQ to update its permit system to be more protective of human health. We can and should have both jobs and healthy homes and work places. For the first time in two decades, Oregon is looking to revise its permitting system. Right now, Oregon is the most lenient state in the country, setting pollution limits so high that a company can inundate a community with toxics without any repercussions.

Provide a clear directive for the agency to reduce emissions wherever possible

Put real teeth into these rules, so penalties are more than just the cost of doing business.

Response: DEQ has updated its permitting program many times over the past 20 years. Two major permitting program updates occurred in 2001 and 2015 that strengthened DEQ's permitting program. In 2018, the Environmental Quality Commission adopted Cleaner Air Oregon, the state's first toxic air contaminant program, regulating more than 600 toxic air contaminants. Many states do not regulate air toxics beyond EPA requirements.

This proposed rule package will also strengthen DEQ's permitting program and may result in emission reductions for businesses that build or modify their facilities. More air quality modeling will be required to ensure that the National Ambient Air Quality Standards are protected.

DEQ takes enforcement against sources who violate permit conditions which can be found on this website: https://www.oregon.gov/deq/Pages/Enforcement-Actions.aspx#:~:text=Enforcement%20Actions.%20The%20Oregon%20Department%20of%20Environmental%20Quality,and%20deter%20future%20violations.%20Penalties%20are%20listed%20below.

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 3, 5, 6, 22

Suggested Change #18: Do not allow regulated businesses to have input in rulemaking or have cozy relationships with DEQ

Description: Who has had input into these new rules? Is this at the behest of those who will be regulated? No cozy relationship with those regulated.

Response: DEQ implements Oregon’s environmental laws through its rules and related programs. DEQ proposes rules that define how the public and industry interact with the environment in an effort to benefit the economy, human habitation and the preservation of natural areas. To those ends, we seek public involvement during the rule development process by conducting informational meetings, establishing advisory committee meetings, holding public hearings and inviting public comment. A Rules Advisory Committee was formed with 12 members from industry, environmental groups and public health to gather input on this proposed rulemaking. The RAC met five times, starting in December 2021 and finished with a fiscal meeting in May 2022.

In the air quality permitting program, DEQ enforces environmental laws to protect human health and the environment. DEQ carries out inspections at industrial facilities and reviews report submittals from industry to ensure compliance with permit conditions.

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 3

Suggested Change #19: Protect Environmental Justice communities with additional resources

Description: Lower income and minorities are always impacted more by these decisions. Please take into account how these rules will affect local communities for decades to come. Ensure that environmental justice considerations actually inform and direct the agency's permitting decisions.

As required under HB 2993, Section 2, DEQ expects this proposed rulemaking to favorably impact racial equity: the fair, just and unbiased treatment of people of different races, and environmental justice in Oregon. Adoption of the proposed rulemaking will impact racial equity and environmental justice by providing more precise permit limits that more accurately reflect facility operation, rather than generic limits, giving the public more exact information. The proposed rulemaking could also potentially require emission reductions in all areas of the state, including those identified as having vulnerable populations because of the requirement to perform a technology review analysis and air quality modeling analysis. Shut down of a business that cannot afford to comply with the proposed rules would be an unintended adverse consequence on racial equity if Black, Indigenous, and People of Color worked for that business. Conversely, decreased emissions of pollutants from facilities in proximity to such communities would be a positive consequence on racial equity.

We understand that DEQ's budget and need for legislative authorization for new positions constrain the agency's ability to move forward on critical environmental justice initiatives like hiring staff to ensure meaningful community engagement throughout the permitting process. If additional funds are needed to carry out DEQ's duty to encourage public participation, to consider environmental justice issues, and to study the effect of DEQ's decisions on communities traditionally underrepresented in public processes, see ORS 182.545(4), we urge DEQ to seek the legislative authorization and funding necessary to fulfill its environmental justice obligations.

We would happily support DEQ's request for additional funding to carry out this important work.

Understanding and Evaluating Health Impacts

DEQ currently has information available from permitted facilities and readily available data sources that would allow a basic characterization of environmental justice impacts in Oregon based on criteria pollutants and air toxics. Understanding baseline conditions would be specifically helpful in determining how and where to continue to implement changes and the urgency to make them in rule making processes. This analysis has been requested in past RAC meetings and comment periods. Documenting and reporting on baseline conditions reinforces the potential for human health impacts from permitted facilities. Without knowledge of existing conditions, neither DEQ, the public, nor stakeholders are able to discern with strong confidence whether implementation of proposed rule changes can and will address environmental injustices.

Response: DEQ has initiated a process to hire a new full-time Environmental Justice Coordinator in fall/winter 2022 as a limited duration position. The person in that role will help increase agency capacity for policy analysis and engagement activities centered on environmental justice. DEQ intends to include that EJ Coordinator position as a permanent position in the 2023-25 Agency Request Budget. DEQ acknowledges your support for this legislative request.

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 6, 9, 22

Suggested Change #20: Provide ample notice of PSEL changes

Description: The public should get a generous amount of notice for PSEL changes. In order to be held accountable and have transparency, this is crucial.

Response: DEQ is proposing to eliminate Generic Plant Site Emission Limits. Permitting at source specific PSELs rather than Generic PSELs creates permits that more accurately reflect actual emissions, providing more transparency for communities. Permitting businesses with source specific PSELs rather than Generic PSELs may require more permit modifications and more public notice for any requested increases in PSELs. Depending on the amount of the requested increase in PSEL, public notice may require a 30-day public notice period or may require a 35-day public notice period with an opportunity to request a public hearing.

Individuals interested in receiving notifications (text or email) of proposed permit modifications are encouraged to sign up for notifications via DEQ's GovDelivery service: https://public.govdelivery.com/accounts/ORDEQ/subscriber/new?topic_id=ORDEQ_564

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 6

Suggested Change #21: Inspect sources more often based on the permit type.

Description: Inspections should be done more often, based on the permit type.

Response: The permit type determines how often a source is inspected. Basic ACDP permittees are inspected every 10 years. General ACDP permittees are inspected every 5-10 years. Simple ACDP permittees are inspected every 4 years. Standard ACDP permittees are inspected every 3-5 years. If DEQ receives complaints about a permittee, more frequent inspections can be done.

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 6

Suggested Change #22: Do not renew short-term activity permits

Description: I don't think the short-term activity permit (emergency) should be able to be renewed for another 60 days.

Response: DEQ is proposing to expand the use of the Short-Term Activity permit beyond emergency or unexpected activities, including the operation of a pilot or an exploratory emissions unit; source test of a pilot or an exploratory emissions unit; or other similar types of temporary activities that emit air contaminants. Some of these activities may take longer than 60 days to complete. DEQ has added a provision that DEQ has the ability to deny the 60-day renewal.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 6

Suggested Change #23: Do not eliminate "modification" from the Notice of Intent to Construct rules so as to require NCs for routine maintenance, repair and like-kind replacement projects

Comment: DEQ has proposed elimination of "modification" from the Notice of Intent to Construct rules because the definition of "construction" already includes "modification."

LRAPA suggests that DEQ reconsider removing the word "modification" from the Notice of Intent to Construct rules. "Construction" as listed in the proposed rulemaking is defined as:

"Construction":

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

(b) As used in OAR chapter 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. [Italics added for emphasis]

This definition appears to preclude the full definition of "modification". "Modification" as listed in the proposed rulemaking is defined as:

"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…[Italics added for emphasis]

Based on these definitions, the removal of the word modification could be interpreted to subject only physical changes at sources not subject to NSR to the rules under OAR chapter 340, division 210 and exclude a change in the method of operation. LRAPA is suggesting that DEQ consider adding back in "and modification" wherever the word "construction" is used in OAR chapter 340, division 210 and other divisions, as appropriate. Alternately,

DEQ could add a second clause to paragraph (a) of the definition of construction that includes the language concerning a change in the method of operation.

Response: DEQ agrees with the commenter that the removal of the word modification could be interpreted to subject only physical changes at sources not subject to NSR to the rules under OAR chapter 340, division 210 and exclude a change in the method of operation.

Comment: The Coalition is concerned that the proposed language in OAR 340-210-0205(1)(b)(B) contradicts DEQ's longstanding approach to construction approvals and violates state statute. The existing rules apply to "modifications" at existing sources. "Modification" is a defined term that excludes "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." OAR 340-200-0020(93)(c). By deleting the word "modifications" from OAR 340-210-0205(1)(b), the Department appears to be proposing to require NOC approval prior to routine maintenance, repair, and like-for-like kind replacements. This interpretation is more strongly suggested by the proposed addition of new language (OAR 340-210-0205(1)(b)(B)) stating "No person may replace a device or activity at an existing source without first notifying DEQ in writing."

There are many policy reasons not to make the proposed rule changes. For one, the proposed changes will create tremendous additional burden on sources performing routine maintenance and replacements, which are undertaken nearly continuously, especially at large sources. It will also be hugely challenging to implement, as sources have – for many years – operated within a regulatory system in which these activities could be undertaken without construction approvals.

Routine maintenance, repair, and like-for-like kind replacements should be explicitly exempted from the NOC requirement. The state's air quality goals are not served by focusing DEQ attention on trivial, everyday projects or making it more burdensome for sources to maintain their equipment.

There is also a statutory bar on DEQ making the proposed changes. ORS 468A.055 is the basis for DEQ's authority to require preconstruction notices. That statute expressly states that "construction" includes "installation and establishment of new air contamination sources." ORS 468A.055(7) (emphasis added). The statute does not include authority to require notices for maintenance of existing equipment. This is further clarified later in this same section where the Legislature states:

Addition to or enlargement or replacement of an air contamination source, or any major alteration or modification therein that significantly affects the emission of air contaminants shall be considered as construction of a new air contamination source. ORS 468A.055(7) (emphasis added).

As can plainly be seen from this statutory language, in order for DEQ to require preconstruction notice/approval, the Department must conclude that the alteration or modification to an existing source significantly affects air emissions. Routine maintenance, repair and replacement clearly does not meet this threshold and so, as a matter of law, DEQ cannot require notice or approval before it is undertaken.

Resposne: DEQ is not proposing to require sources to submit NCs for routine maintenance or repair. These are covered under Categorically Insignificant Activities:

> (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;

Existing rules already require NCs for like-for-like replacements:

> 340-210-0225 Notice of Construction and Approval of Plans: Types of Construction/Modification Changes
>
> For the purpose of OAR 340-210-0200 through 340-210-0250, changes that involve new construction or modifications of sources or air pollution control devices are divided into the following Types:
>
> (1) Type 1 changes ….
>
> (c) Would not increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than the de minimis levels defined in OAR 340-200-0020;
>
> (2) Type 2 changes ….
>
> (c) Would not increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than or equal to the SER;
>
> (3) Type 3 changes ….
>
> (b) Would increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than the SER but are not subject to OAR 340-222-0041(4);

The definition of “modification” only exempts “like-for-like replacement of components”:

> (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:
>
> …
>
> (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.

The proposed rule retains the provisions for routine maintenance and like-for-like replacement of components. Any replacement of an emissions unit, device or activity would almost certainly increase the expected life of the source or part of the source. If sources have not been submitting NCs for replacements, they are likely not complying with the existing NC rules. The proposed rule language will provide further clarification regarding applicable requirements and help sources better comply.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 4, 7, 15, 20

Suggested Change #24: Simplify proposed rule language regarding sources subject to visible emission requirements

Description: DEQ wording changes in Visible Emissions and Nuisance Requirements under OAR chapter 340, division 208

DEQ is proposing a number of formatting changes to regulations governing visible emissions and nuisance requirements. Many of these regulations apply based on a specific time frame for when a source was installed, constructed or modified. As an example:

(b5) For wood-fired boilers installed, constructed or modified prior to on or after June 1, 1970 but before April 16, 2015 and not modified after that date, no person may emit or allow to be emitted any visible emissions that equal or exceed:

The use of the phrase "not modified after that date" in the proposed rulemaking is unnecessarily complicated and could be better accomplished by using the words "last modified" as shown below:

(b5) For wood-fired boilers installed, constructed or last modified prior to on or after June 1, 1970 but before April 16, 2015 and not modified after that date, no person may emit or allow to be emitted any visible emissions that equal or exceed:

Response:

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 4

Suggested Change #25: Change the Type 1 NCs

Comment: Where did the list of sources in OAR 340-210-0225(1)(b) come from? Was this generated by the Advisory Committee or taken from rules in another state? I was also curious why control device installations such as baghouses replacing cyclones were not on this list.

The Coalition supports the idea of identifying certain actions that are presumptively classified as Type 1 NOCs and appreciates the revisions made to the listings since the last RAC meeting. It appears that some, but not all, of the exemptions derive from the Puget Sound Clean Air Agency ("PSCAA") found at PSCAA Regulation 1, Section 6.03(b) and (c) (https://pscleanair.gov/DocumentCenter/View/339/1-6-PDF?bidId=). We strongly support complete adoption of the list of exempted activities found in the PSCAA regulations.

Response: The proposed list of sources in OAR 340-210-0225(1)(b) was compiled from a list of exempt emissions units from approximately 28 other state and local agencies. In reviewing these lists, DEQ only included ones on the "notice and go" list that met the criteria of de minimis emissions. Hundreds of activities on other state and local agency lists were not included on the "notice and go" list because of concerns about potential emissions. These lists are too encompassing and not appropriate for Oregon, including the list from Puget Sound Clean Air Agency.

Comment: The stationary internal combustion engine exemption includes engines having a rated capacity of less than 60 horsepower output. DEQ should consider adding a higher exemption threshold for emergency stationary internal combustion engines using their experience with approvals for emergency stationary internal combustion

engines at cellular communication facilities. LRAPA suggests an exemption of 100 horsepower or 60 kilowatts of electrical output for such sources.

Response: DEQ is proposing to include the following on the Type 1 "notice and go" list of equipment for stationary internal combustion engines:

> (A) Stationary internal combustion engines having a rated capacity <60 horsepower output;
>
> (B) Emergency stationary internal combustion engines having a rated capacity <670 horsepower (500 kilowatts) output;

Comment: We support the concept of a "notice and go" list streamlining the approval process for existing sources to make modifications involving technology that categorically does not produce significant emissions. However, the proposed rules could be interpreted to greenlight several types of technology that could actually contribute to exceedances of ambient air quality standards or endanger fenceline communities.

DEQ should more carefully define some of the items on the "notice and go" list so that they are not interpreted unduly broadly to encompass high-emitting technologies or outdated technologies, which deserve a closer look by DEQ, rather than automatic approval:

- DEQ is proposing an exemption for plasma- or laser-cutting operations using a water table. A single plasma and laser-cutting operations can have potential nitrogen oxide emissions above de minimis depending on the cutting technology and material being cut, even with a water table. DEQ should consider removing or restricting this exemption.
- "Replacement of process control equipment" (Proposed OAR 340-210-0225(1)(b)(E)). Because "process control equipment" is undefined, it is unclear what this category is intended to include. DEQ should clarify that "process control equipment" does not include "air pollution control devices," but rather, only "inherent process equipment that is used to destroy or remove a regulated pollutant prior to discharge to the atmosphere." See OAR 340-200-0020(10). If a regulated source has to replace an air pollution control device, DEQ should require a technological review to ensure that the source seizes the opportunity to improve its pollution control if there are alternative technologies available that would deliver greater emissions reductions.
- "Equipment used for hydraulic or hydrostatic testing" (Proposed OAR 340-210-0225(1)(b)(T)). Some hydraulic fluids are not water-based, and can cause troubling pollution. DEQ should narrow the category of non-water-based hydraulic fluids included on the notice-and-go list based on vapor pressure.
- "Storage tanks [. . .] where there is no generation of objectionable odor or airborne particulate matter" (Proposed OAR 340-210-0225(1)(b)(U)). DEQ should clarify that this category also excludes equipment that generates toxic air emissions by adding the phrase "or toxic air pollutants listed in OAR chapter 340, division 247" to the end of the sentence.
- "Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons" (Proposed OAR 340-210-0225(1)(b)(V)). This category should be limited by annual throughput as well as vessel capacity. Even smaller vessels can generate considerable emissions if the materials are being frequently loaded and unloaded.
- "Equipment used exclusively for conveying and storage of plastic pellets" (Proposed OAR 340-210-0225(1)(b)(BB)). "Plastic pellets" is a broad category that could include materials that degrade easily and generate significant dust and fugitive PM emissions. DEQ should define this category to include only plastic pellets that don't break down or degrade and are only used for indoor manufacturing and should add limits on size and throughput.

Response: DEQ agrees with the commenter and has removed the exemption for plasma- or laser-cutting operations using a water table.

DEQ has clarified "replacement of process control equipment" with the following: "Replacement of equipment that is used to control processes, such as temperature, air pressure, water pressure, electrical current, flow rate, etc." DEQ did not intend this activity to be inherent process equipment that is used to destroy or remove a regulated pollutant prior to discharge to the atmosphere. DEQ agrees that installation of pollution control devices must be reviewed to ensure that emissions are minimized.

DEQ agrees with the commenter and has added the qualifier that the hydraulic fluids for equipment used for hydraulic or hydrostatic testing should be water-based.

DEQ agrees with the commenter and has added "or toxic air pollutants listed in OAR chapter 340, division 247" to the end of "Storage tanks [. . .] where there is no generation of objectionable odor or airborne particulate matter."

DEQ agrees with the commenter and has added "where annual emissions are less than or equal to the de minimis levels" to "Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons."

DEQ agrees with the commenter and has added "that don't break down or degrade and are only used for indoor manufacturing: to "Equipment used exclusively for conveying and storage of plastic pellets."

Comment: We also urge the Department to remove the requirement from the proposed 340-210-0225(1)(b) that in order to qualify for an exemption, the project at issue cannot increase "production or throughput in other unchanged portions of the facility" or "increase[e] the overall efficiency of the operation." These qualifications do not reflect on the potential emissions increase resulting from the project being contemplated and introduce a large degree of subjectiveness to the assessment of whether a project is a Type 1 change. DEQ is proposing an approach more stringent than that used in other states such as Washington where a qualifying project is exempt from the NOC requirement regardless of whether it makes the source more efficient. DEQ is proposing to require that companies wanting to make a change within one of the enumerated categories still need to file a Type 1 NOC while other jurisdictions require no filing for such changes. The approach taken in Washington and elsewhere is simply that, if a project fits into an exemption category, a NOC should not be required. That same approach should be adopted in Oregon without the need to demonstrate that the project does not affect unchanged portions of the facility or that the project will not increase the efficiency of the operation (a goal that the Oregon Legislature has directed DEQ to promote, not hinder).

Response: DEQ agrees with the commenter and has removed the requirement from the proposed 340-210-0225(1)(b) that in order to qualify for an exemption, the project at issue cannot increase "production or throughput in other unchanged portions of the facility" or "increase[e] the overall efficiency of the operation."

Comment: While the Coalition supports the idea of having certain non-categorical changes qualify as Type 1 NOCs based on emissions, the proposed language is much too restrictive to be meaningful or applicable. We recognize the practicality of the requirement that in order to qualify as a Type 1 change, the change must not increase emissions over a PSEL or result in emissions above the netting basis in excess of a significant emission rate ("SER"). However, we urge the Department to eliminate the qualifications proposed in OAR 340-210-0225(1)(a)(A) and (B) which would require a source to aggregate all regulated air pollutants with potential to

increase as a result of the project and then compare them to a 10 pound per day pre-control and 10 pound per day post-control threshold. This should be altered for several reasons.

First, there is no basis to aggregate different regulated pollutants. If the intent was only to aggregate each individual regulated air pollutant increase from a project (e.g., add up the potential carbon monoxide ("CO") emission increases from a project's two emissions points), not mix and match pollutants, then the language should be clarified. However, as drafted, the proposed language suggests that a source would add CO emissions to nitrogen oxides (NO_x) and particulate emissions to determine if the potential to emit changed by more than 10 pounds per day. Aggregating pollutants in this manner is unprecedented and unworkable and so we assume this was not intended. As such, we suggest that the rule language be clarified that this addition across pollutants is not required.

Second, for many industries that routinely employ highly effective controls (e.g., sawmills), the pre-control threshold of 10 pounds per day makes no practical sense. Particulate matter is a regulated air pollutant under DEQ's definition in OAR 340-200-0020(134). A typical baghouse would control 99.9% or more of total particulate. And yet, under the proposed language, the addition of a piece of equipment with 11 pounds per day of pre-control potential to emit to an existing baghouse would require a Type 2 NOC. This makes no sense given that the controlled potential to emit would be a small fraction of an ounce per day. Requiring the submittal of even a Type 1 NOC in such a situation has no appreciable environmental benefit. Requiring submittal of a Type 2 notice is excessive.

At the very least, Type 1 changes should include the installation of air pollution control devices that do not result in a greater than de minimis increase in the post-control emissions of any individual regulated pollutant. Any project that will have the ultimate result of lowering emissions should be fast-tracked through a Type 1 NOC. The Department should not make it more difficult, process-intensive or time consuming for sources to install, enhance or expand their air pollution control systems. If, for example, a source wants to add a baghouse to an existing source without causing more than de minimis increases in actual emissions, the only outcome is an environmental benefit. No environmental benefit is gained by shifting such an installation to the more laborious, slower Type 2 process. The result of requiring a Type 2 notice prior to implementing such a project is to delay installation of the air pollution control device and thus delay the environmental benefits. Therefore, we recommend that the Department explicitly state in OAR 340-210-0225(1) that air pollution control devices qualify for Type 1 NOCs where the installation and operation of the device will not result in a greater than de minimis increase in the emission of any individual regulated air pollutant.

Response:

DEQ has removed the requirement to aggregate pollutants for Type 1 NCs and has retained the de minimis threshold for Type 1 NCs. Under existing rules, a source that wants to replace a device, process or activity that results in potential emissions of more than de minimis levels (usually 1 ton/year) for any regulated air pollutants, must submit a Type 2 change. If a permit does not indicate that a baghouse is a pollution control device onsite and does contain monitoring requirements for that baghouse, a permit modification may be required rather than an NC.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 1, 4, 20, 22

Suggested Change #26: Do not require a Type 3 NC for addition of an SIC code

Description: DEQ proposes to require any person proposing construction that requires a change in the primary two-digit SIC/NAICS code for a source or the addition of a new SIC/NAICS code to submit a Type 3 notification. DEQ should consider the ramifications of this proposal and the location of the language in the proposed rulemaking. The original intention of the use of SIC code was for the determination of whether a physical location containing multiple related business entities constituted a single source for air quality permitting. As discussed in the introduction to the 1987 Standard Industrial Classification Manual, each establishment is to be classified according to its primary activity – not multiple secondary activities. DEQ has attempted to adapt SIC and NAICS codes as a tool for determining whether a modification triggers a permitting action. Requiring a Type 3 change for any addition of a source that may be considered to be subject to a new SIC/NAICS code may lead to unintended consequences. As an example, based on past DEQ permitting history, the addition of a boiler for building heat to a facility that had never had a boiler previously would require a Type 3 notification because DEQ has historically used SIC code 4961 to represent boilers regardless of the primary SIC code of the facility. At the very least, DEQ should consider moving this language to OAR 340-210-0225(3) as a change that would require a Type 3 notification.

SIC/NAICS Code changes requiring Type 3 NOCs (OAR 340-210-0230(3))

The Coalition is concerned that the Department is not considering how SIC/NAICS codes work in relation to its proposal to require that such changes undergo Type 3 NOC review. The proposed OAR 340-210-0230(3) would require a Type 3 NOC for "construction that requires a change in the two digit SIC/NAICS code for a source or the addition of a new SIC/NAICS code…." We see multiple problems with this proposed language, which we request be withdrawn from the proposed rule.

First, any reference to a two-digit SIC or NAICS code must identify that it is the primary two-digit code. A source can have any number of applicable codes, but the one that defines the source is the primary two-digit code. This code is defined by the activity that generated the highest amount of income for the facility in the prior calendar year. There can only be one such activity.

Second, the proposed rule language is inconsistent with the SIC/NAICS code structure. A construction project does not and cannot, by itself, "require a change in the two digit SIC/NAICS code." As noted above, the primary two-digit code for a facility is defined by the prior year's income. A proposed construction project cannot change the largest source of revenue in the prior year. Construction may, at most, result in a future change to the primary two-digit code. Construction can never, by definition, require a change in the primary two-digit code.

Finally, it is not appropriate to link the type of construction approval to whether, in the future, the primary source of revenue of a company may change. Such changes can only be guessed at and may never come to fruition.

Response:

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 4, 20

Suggested Change #27: Remove the language regarding an exceedance or violation of an ambient air quality standard so as not to exclude compliance with PSD increments

Description: Proposed language in OAR 340-216-0040(1)(a)(O) requires that the applicant submit "any information required by OAR chapter 340, divisions 222, 224, 225, 226, and 245, including but not limited to control technology and analysis, and air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225, demonstrating that the source's emissions will not cause or contribute to an exceedance or violation of an ambient air quality standard adopted under OAR chapter 340, division 202; and information related to offsets and net air quality benefit, if applicable." LRAPA suggests removing the language "demonstrating that the source's emissions will not cause or contribute to an exceedance or violation of an ambient air quality standard adopted under OAR chapter 340, division 202". This language could be interpreted to exclude the requirement to demonstrate compliance with PSD increments for sources that may be subject to such a requirement. Alternatively, DEQ could add language referencing PSD increment to this section. As a general question, does the use of this language preclude DEQ from determining whether a minor source is in compliance with PSD increment?

Response:

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 4

Suggested Change #28: Set PSELs for General Permits based on potential to emit

Description: DEQ is proposing to set PSELs for General Air Contaminant Discharger Permits at the "capacity" for the largest emitting sources in the source category in the state for all regulated pollutants other than toxic air contaminants that are emitted at more than the de minimis emission level under OAR 340-21-0060(1)(b)(B). How will the largest emitting source in the source category be determined? All criteria pollutants combined or the largest single criteria pollutant emitted?

The use of capacity may not reflect the intent of the Notice of Proposed Rulemaking which states that "Permitting at capacity or potential to emit instead of Generic PSELs creates permits that more accurately reflect actual emissions, providing more transparency for communities." First, the preamble language states that PSELs for General ACDPs will be set at capacity or PTE, which is in conflict with the actual rule. Second, if all sources in a general permit category are using controls to reduce emissions of a given regulated pollutant or the permit itself contains enforceable limitations on capacity, will DEQ still use capacity to set the General ACDP limit for that pollutant? LRAPA suggests that the PSEL for regulated pollutants for General Air Contaminant Discharge Permits be set at the "potential to emit" or "PTE" for the largest emitting source in the source category in the state for all regulated pollutants. The definition of PTE in OAR 340-200 is based on the lesser of the capacity or the maximum allowable regulated pollutant emissions taking into consideration any physical or operational limitations. Has DEQ considered the ramifications of the construction of a new source in whose emissions exceed the General ACDP PSELs because it was not considered in the source category to set the General ACDP PSELs? Will the General ACDP PSELs be adjustable at renewal of the General ACDP? How and/or will the HAP PSELs be set for General ACDPs?

DEQ should further strengthen its current permitting proposal. For permittees on Simple ACDPs, DEQ is proposing to give sources the choice between an annual PSEL set at the source's "capacity to emit" (CTE) or at its "potential to emit" (PTE). See (Proposed) OAR 340-222-0041(2). This proposal is contrary to the goals of the rulemaking. For many minor sources there is a significant difference between their capacity and potential to emit; by allowing the CTE option, DEQ is proposing a system where sources would continue to be permitted at levels which they cannot reasonably emit. Permitting facilities at capacity would significantly reduce the opportunities for DEQ to assess short-term NAAQs compliance, and limit opportunities for the public to meaningfully engage. Ultimately, permitting sources on Simple permits at capacity would maintain a system that prioritizes industry flexibility over public health and transparency.

On a more fundamental level, allowing sources on Simple permits the choice of being permitted at CTE is not consistent with an air permitting program that values and prioritizes community health. DEQ has a critical opportunity in this rulemaking to take an important first step in resetting the permitting program to emphasize community protection, transparency, and environmental justice. Permitting facilities at capacity—which, of course, is a level that many facilities could never physically emit—gives facilities unnecessary, extreme flexibility, while taking away critical opportunities for both DEQ and the public to assess facility emissions and health impacts. We urge DEQ to re-think this proposal and eliminate the option of PSELs for Simple ACDPs set at capacity to emit.

Response: DEQ anticipates determining the largest emitting source in a General Permit category based on the largest single regulated air pollutant emitted, either criteria pollutant or hazardous air pollutant.

If a new source was constructed that had emissions which exceeded the General ACDP PSELs, that source would be in violation and subject to enforcement. If that new source has Potential to Emit higher than the established General ACDP PSELs, the source would still be required to operate within the permit's PSELs. The General ACDP PSELs can be adjusted at renewal or modification of the General ACDP. Hazardous Air Pollutant PSELs, if required, will be calculated for General ACDPs using the same methodology as criteria pollutants.

DEQ has changed the proposed rule language to state that PSELs for Simple ACDPs set at potential to emit. But Oregon's definition of potential to emit also includes the regulated pollutant emissions capacity of a stationary source. DEQ feels that it is important to give sources the option to be permitted at capacity or potential to emit. Some sources may be required to obtain a different type of permit if they choose to be permitted at capacity. DEQ anticipates that most sources will choose to be permitted at some level of potential to emit in order to avoid obtaining a more complex permit type or becoming a major source.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 4, 22

Suggested Change #29: Clarify the addition of "aggregate" to OAR 340-216-8010 Table 1 Part B Category 13

Description: DEQ changes to Part B: General, Simple or Standard ACDP list

DEQ proposes to add the word "aggregate" to Category 13. The proposed language reads:

"Aggregated boilers and other fuel burning equipment over 10 MMBTU/hour heat input, except exclusively Natural Gas and Propane fired units (with or without #2 diesel backup) under 30 MMBTU/hour heat input."

The addition of the word "aggregate" appears to be an attempt to clarify that the 10 MMBTU/hour heat input threshold applies to the aggregate of the heat input ratings of all boilers and other fuel burning equipment at a source. However the exclusion related to natural gas and propane fired units confuses the applicability. Are natural gas and propane fired units completely ignored if each natural gas or propane fired unit is individually below 30 MMBTU/hour heat input? DEQ should clarify Category 13.

Note that the Notice of Proposed Rulemaking includes a version of division 216, Table 1 that does not include the B.90 and C.8 categories that currently exist for landfills subject to division 239.

Is it possible for DEQ to include a permit modification fee that is somewhere in between the existing Simple Tech Mod and Moderate Tech Mod, or does that require legislative approval? It would be nice not to have such a drastic jump in mod fees. Same for division 220.

Response: DEQ agrees with the commenter that the proposed addition of the word 'aggregate' may cause confusion. DEQ proposes to modify the language associated with boiler activities (OAR 340-216-8010 Table 1 Part A #4 and Part B #13) as follows:

Part A#4:

> 4 Individual natural gas or propane-fired boilers with heat input rating between 9.9 and 29.9 MMBTU/hour, constructed after June 9, 1989, that do not use more than 9,999 gallons per year of #2 diesel oil as a backup fuel.

Part B#13:

> 13 Oil-fired boilers and other fuel burning equipment whose total heat input rating at the source is over 10 MMBTU/hour; or individual natural gas, propane, or butane-fired boilers and other fuel burning equipment 30 MMBTU/hour or greater heat input rating.

The Environmental Quality Commission adopted the Landfill Gas Emissions 2021 rules at its Oct. 1, 2021 meeting. The proposed rules were pulled from the Secretary of State website before that rulemaking was complete so OAR chapter 340, division 216, Table 1 inadvertently omitted B.90 and C.8 categories that currently exist for landfills subject to division 239. These categories will be added to the rules as adopted rules.

DEQ did not include any fee changes in this proposed rulemaking. DEQ requires legislative approval for proposed fee changes.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 4

Suggested Change #30: Clarify what pollutants are assessed emission fees

Description: DEQ Changes to Division 220 – Title V Fees

Emission fees are assessed on all regulated pollutants except as specified in OAR 340-220-0070 -Exclusions. The only regulated pollutant that is specifically excluded is CO. However, the DEQ Invoicing IMD states that emission fees are paid for four pollutants: PM_{10}, NO_x, SO_2, and VOC. Division 200 definition 135(b) for "regulated pollutant" refers to the four assessable emission pollutants but specifies "particulate matter" in lieu of PM_{10} as specified in the IMD. Should DEQ clarify in the division 220 rules that those are the only four regulated pollutants for which emissions fees are assessed? See also comment on division 222 below.

Response: OAR 340-220-0070 was not included in the Notice of Rulemaking as one of the rules affected by this proposed rulemaking. Therefore, DEQ cannot propose this change at this time.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 4

Suggested Change #31: Remove the requirement to set HAP PSELs for fees

Description: DEQ Changes to Division 222 – PSELs

OAR 340-222-0060 PSELs for HAPs: Since HAPs are not assessed for Title V emission fees should 340-222-0060(1)(a) be deleted?

Should the 222-0060 HAP PSEL rule also reference 222-0041- Annual PSEL since that rule refers to "all regulated pollutants emitted at more than the de minimis emission level", in terms of setting the level? The revised language of setting the HAP PSEL at "the level the permittee establishes necessary for the source" leaves it open to interpretation that the HAP PSEL can be set at 9 and 24 tpy for single and total HAPs, respectively – or essentially a status quo on the use of generic PSELs for HAPs.

Response: In the Oregon Administrative Rules that were in effect in 1994, emission fees were assessed for hazardous air pollutant emissions.

> Pollutants Subject to Emission Fees
> 340-28-2610
> (1) The Department shall assess emission fees on assessable emissions up to and including 4,000 tons per year for each regulated pollutant for fee purposes.
> (2) If the emission fee on PM10 emissions is based on the PSEL for a major source that does not have a PSEL for PM10, the Department shall assess the emission fee on the PSEL for TSP.
> (3) The owner or operator shall determine each assessable emission separately.
> (4) The owner or operator shall pay emission fees on all assessable emissions from each emission source included in the permit or application review report.
> (5) The owner or operation shall not pay emission fees on Hazardous Air Pollutants already covered by a Criteria Pollutant.
>
> Emission Reporting
> 340-28-2650
> (1) For the purpose of assessing emission fees the owner or operator shall submit the following information on a form(s) developed by the Department for each assessable emission in tons per year, reported as follows:

(a) Particulate Matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers, as defined in OAR 340-28-110(71), as PM10 or if permit specifies Total Suspended Particulate (TSP) then as TSP,
(b) Sulfur Dioxide as SO2,
(c) Oxides of Nitrogen (NOx) as Nitrogen Dioxide (NO2),
(d) Total Reduced Sulfur (TRS) as H2S in accordance with OAR 340-25-150(15),
(e) Volatile Organic Compounds as:
(A) VOC for material balance emission reporting, or
(B) Propane (C3H6), unless otherwise specified by permit, or OAR Chapter 340, or a method approved by the Department, for emissions verified by source testing.
(f) Fluoride as F.
(g) Lead as Pb.
(h) Hydrogen Chloride as HCl.
(i) Hazardous Air Pollutants as specified in a Department approved test method.

DEQ no longer charges fees for hazardous air pollutants. The language in the proposed rules at OAR 340-222-0060(1)(a) has been modified to remove the reference to emissions fees.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 4

Suggested Change #32: Clarify minor new source review rules and presumptive minor source emission reduction technology requirements

Description: While we appreciate clarification that the program is limited to NO_x, VOC, PM_{10}, $PM_{2.5}$ and SO_2, OAR 340-224-0300(1)(c) states that devices or activities that emit CO, VOC or fugitive particulate are exempt from Minor Source New Source Review (NSR) program. There is a lack of clarity in how VOC is subject to MSERT but activities emitting VOC are exempt from minor source new source review. A clarification is needed to understand when VOC emissions are exempt from MSERT. Similarly, condensable PM is not responsive to controls and fugitive emissions of any covered pollutant should not be subject to minor source NSR or MSERT. We would suggest that DEQ clarify that MSERT only applies to filterable PM.

Additionally, if an existing source seeks a permit modification, OAR 340-224-0300(1)(b) would require that source to undertake ambient air modeling for all pollutants or activities with an uncontrolled potential to emit equal to or greater than the minor source significant emission rate (SER) and the MSERT for all individual devices or activities with uncontrolled potential to emit equal to or greater than the SER. It is unclear whether the scope of modeling or MSERT would be limited to the emission units being physically modified. As written, the proposed rule does not tie the modification application to the device or activity with uncontrolled potential to emit greater than the minor source SER, nor does it define what devices or activities at a facility must undergo MSERT. Without understanding DEQs intent for this program, we believe that a revision is necessary to clarify that this section of the proposed rule would only apply to those emissions units being physically modified.

Lastly, existing sources have made and continue to make significant investments to comply with Oregon's air quality program and the MSERT program as proposed has the potential to render technologies in use by existing sources non-compliant. This section of the proposed rule was developed without consulting RAC members representing existing sources and does not offer a reasonable or comprehensive representation of existing and

potential control technologies. We ask that DEQ reevaluate and clarify the parameters of the minor source NSR and MSERT processes.

DEQ addition of OAR 340-224-0300 Minor New Source Review

Under the proposed rule, Minor NSR applies to any application for a Type 3 change for which individual devices or activities will have uncontrolled PTE at or above a minor source SER or any application for a permit or permit modification under OAR 340-216 where any individual device or activity will have uncontrolled PTE at or above a minor source SER. Minor NSR clearly applies to any devices or activities that are part of the Type 3 change or part of an application for a new permit. It is unclear which devices or activities will be subject to Minor NSR for a permit modification. DEQ should clarify the language regarding which individual device or activities are subject to Minor NSR for a permit modification. DEQ should also clarify whether a renewal with no modification would trigger Minor NSR. An application for a permit could also be considered a renewal application.

Under the Presumptive Minor Source Emission Reduction Technology, DEQ has included "(c) Low NO_x burners for NO_x control from combustion sources where the removal efficiency is 74% or greater;" The use of a removal efficiency for a low NO_x burner has no meaning as low NOx burners do not "remove" NO_x, they inhibit the formation of NO_x relative to a conventional burner. DEQ should consider defining low NO_x burner in terms of an emission limit in parts per million by volume of NOx at a selected oxygen concentration or pounds of NO_x per million Btu heat input.

Under the Presumptive Minor Source Emission Reduction Technology, DEQ has included "(g) Combustion of ultra-low sulfur diesel with a sulfur content below 15 parts per million, renewable diesel or natural gas for SO_2 control." Ultra-low sulfur diesel is defined as a maximum sulfur content of 15 parts per million under 40 CFR 1090.305. LRAPA suggests the language be changed to "sulfur content of no more than 15 parts per million". Table 1 in Notice of Proposed Rulemaking (NPR) lists LNBs, LECs, and ULSD as control devices. Should these be added to the definition in division 200?

OAR 340-216-0040

DEQ's proposed revisions to the application requirements under (1)(a)(O) for new permits require a control technology and analysis and air quality analysis demonstrating that the source's emissions will not cause or contribute to an exceedance or violation of an ambient air quality standard. DEQ should clarify that this requirement may not be applicable to all types of ACDPs. A source submitting a new application for a Basic, General or Simple ACDP should not have to submit a control technology and analysis and air quality analysis where the PTE is below 75% of the SERs. As drafted, the application requirement is confusing. If required at all, this analysis should be limited to applications for new Simple ACDPs where the PTE is 75% or greater of the SER and Standard ACDPs.

OAR 340-224-0300

Under the list of presumptive Minor Source Emission Reduction Technology ("MSERT"), DEQ should include emission units subject to a federal NSPS or NESHAPs. For those emission units, a source should not have to further evaluate a MSERT.

First, the proposed definition of MSERT in OAR 340-200-020(92) limits the program to NO_x, VOC, PM_{10}, $PM_{2.5}$ and SO_2. We appreciate this clarification. However, in the proposed OAR 340-224-0300(1)(c), the Minor Source New Source Review ("NSR") program would exempt devices or activities that emit CO, VOC or fugitive particulate. It is not clear how VOC is subject to MSERT and yet activities emitting VOC are exempt from minor source new source review (of which MSERT is a part). We believe that clarifying language is necessary to ensure the reader understands the circumstances in which VOC emissions are exempt from MSERT. Similarly, we

support the exemption from Minor Source NSR for fugitive PM, but we request that DEQ clarify that the fugitive emissions of any of the covered pollutants are not subject to Minor Source NSR or MSERT. In addition, because condensable PM is not amenable to controls, we urge DEQ to clarify that MSERT applies only to filterable PM.

Second, the Coalition is concerned that the wording of the proposed OAR 340-224-0300(1)(b) makes it appear that if an existing source seeks a permit modification (e.g., a change in emission factor), DEQ would require the facility to go through ambient air modeling for all pollutants/activities with an uncontrolled potential to emit equal to or greater than the Minor Source SER and the MSERT program for all individual devices or activities with uncontrolled potential to emit equal to or greater than the Minor Source SER. As drafted, it is not clear that the scope of modeling or MSERT under -0300(1)(b) would be limited to those emission units being physically modified. Instead, it appears from the proposed language in OAR 340-224-0300(1)(b) that Minor Source NSR is triggered if a source applies for a modification of its permit and has any device or activity at the plant with an uncontrolled potential to emit equal to or greater than the Minor Source SER. As proposed, the rule language fails to connect the modification application to the device or activity with uncontrolled potential to emit greater than the Minor Source SER. Further, nowhere in the rule does it define what devices or activities at a facility must undergo MSERT. If a source changes an emission factor for a small activity (an action that would appear to require a permit modification under the proposed language), does every activity that meets the uncontrolled potential to emit threshold have to undergo MSERT? Such an outcome is nonsensical such that we cannot believe that could have been DEQ's intent. As there would be no policy basis for requiring modeling or an MSERT demonstration for emission units that are not being physically changed, we presume that DEQ intended this portion of the proposed rule to apply only to those emission units being physically modified. If DEQ actually intended otherwise, we believe that such is very bad policy and will make small permit modifications, such as changes to emission factors, incredibly expensive and time-consuming. Regardless, as DEQ's current proposal is fundamentally unclear on this significant point, we encourage DEQ to clarify its intent through revised rule language. DEQ did not share the Minor Source NSR or MSERT language with the RAC, so it has not had the benefit of any constructive dialog about that proposal. Accordingly, we strongly believe that this rule language is not ready for public notice and should be taken back, redrafted and shared with the RAC before it goes out to public comment.

Third, as proposed, MSERT would apply to any device or activity with uncontrolled potential to emit at or in excess of the Minor Source SER. We believe that having MSERT applicability turn on uncontrolled emissions is contrary to good policy and will discourage facilities from being proactive with controls. If MSERT applicability is based on uncontrolled emissions, then DEQ's rules will actually create a regulatory disincentive for facilities to propose controls from the outset. In contrast, if MSERT applicability were based on controlled emissions, facilities would have significant incentives to do the work up front to keep modified emission unit emissions beneath the Minor Source SER to avoid the protracted permitting delays and fees associated with projects triggering MSERT. To better align DEQ's regulatory language with its intent to incentivize companies to better control project emissions, we encourage DEQ to change MSERT applicability to turn on the level of controlled emissions.

Mandatory modeling as part of Minor Source NSR (OAR 340-224-0300(2)(b))

To reiterate, the Coalition requests that DEQ redraft the proposed rules to clarify (1) that the Minor NSR modeling requirements only apply to emissions units or activities being modified, and (2) only then if the modification causes the emission units to have controlled emissions over the Minor Source SER. In addition, in order to ensure that DEQ inaction does not slow down projects and harm the Oregon economy, modeling review should be limited to 30 days from when the application package is deemed complete or 60 days from submittal if DEQ does not identify in writing any specific shortcomings of the application.

Presumptive MSERT (OAR 340-224-0300(3))

The Coalition supports the concept of presumptive MSERT and appreciates the changes made to this section in response to our prior comments. However, we continue to be concerned about the limited number of controls addressed as well as the way that minimum control efficiencies are applied, as follows:

- In relation to the particulate controls identified in OAR 340-224-0300(3)(a), the list does not include ceramic filtration units (catalytic and non-catalytic), perhaps the highest efficiency particulate controls in use in Oregon at this time. We request that these controls be added to the presumptive MSERT list as they are state-of-the-art and do not fit within any of the enumerated control types.
- We appreciate the addition of low-NO_x burners to the list of presumptive MSERT technologies as they are an excellent means of reducing NO_x. However, we object to the requirement that they have a minimum control efficiency of 80 percent. There is no pre and post-control emissions testing for low-NO_x burners, so it is impossible to demonstrate a control efficiency. As a result, manufacturers are unwilling to provide a formal certification of control efficiency because it is impossible to know what to compare the low-NO_x burner to. For this reason, we request that the control efficiency requirement be removed from the proposed language in OAR 340-224-0300(3)(c).
- As noted previously, we encourage ozone injection for NO_x control as a technology that should be included in the presumptive MSERT listing.

Response: DEQ decided to propose the Minor New Source Review program in a future rulemaking. EPA is currently reviewing existing Minor New Source Review programs across the country to identify best practices to strengthen the effectiveness of state Minor New Source Review programs. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements.

The future rulemaking also provides DEQ time to address staffing shortages and training needs for new staff. DEQ is committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions in communities that are underserved and overburdened with a disproportionate impact from pollution levels.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 19, 16, 4, 20

Suggested Change #33: Clarify that Lane County sources are not included in the % BIPOC map in the Notice

Description: For future versions of the %BIPOC on page 45 of the NPR, could there please be a note added that mentions DEQ did not include Lane County sources on the map?

Response: DEQ changed the Staff Report that will go to the Environmental Quality Commission in response to this comment.

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 4

Suggested Change #34: Define Minor New Source Review

Description: Does DEQ want to add a definition for Minor New Source Review similar to the definition of Major New Source Review?

Response: DEQ decided to propose the Minor New Source Review program in a future rulemaking.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 4

Suggested Change #35: Include opening burning letter permits in the definition of permit

Description: Division 200 definition 112: Should the definition of permit also reference open burning letter permits under 264-0180?

Response: “Letter permit” is defined in division 264. OAR 340-264-0180(1) specifies that Air Contaminant Discharge Permit rules (Division 216) do not apply to 'letter permits.' DEQ believes adding 'letter permits' to the definition of 'permit' in Division 200 would create additional confusion.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 4

Suggested Change #36: Change the title of OAR 340-216-0025 to "Types of ACDPs"

Description: OAR 340-216-0025: suggest changing the title of the rule to Types of ACDPs or Types of Air Contaminant Discharge Permits since there are also Title V Operating Permits and open burning letter permits in the AQ rules

Response: Division 216 is titled “AIR CONTAMINANT DISCHARGE PERMITS” so other types of permits are not regulated by this division.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 4

Suggested Change #37: Clarify that Part C sources must obtain a Standard ACDP or hold a Title V Operating Permit

Description: OAR 340-216-0025(6)(a)(A): would it help clarify that Part C sources must obtain a Standard ACDP or hold a Title V Operating Permit, as applicable?

Response: OAR 340-216-0020 Applicability and Jurisdiction states:

"(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."

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 4

Suggested Change #38: Remove some types of General ACDPs if not renewed

Description: OAR 340-216-0060: Should DEQ remove General ACDP types from the list for which DEQ has chosen not to renew such as the wood preservers and hard chrome platers?

Response: These categories of General permits cannot be removed yet because the Simple ACDPs that will take their place have not been issued yet. Until that happens, the fee classifications must still be included in division 216 until they're all completed.

The following categories can be deleted because the sources assigned to these General permits have all been assigned to a different General permit or otherwise completed a permit type change:

(BB) Paint stripping — Fee Class One;

(CC) Aluminum, copper, and nonferrous foundries — Fee Class Two;

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 4

Suggested Change #39: Clarify that commencing operation will be considered initial startup of the physical change or change in the method of operation

Description: OAR 340-218-0040(1)(a)(B): Would it be useful to clarify that commencing operation will be considered initial startup of the physical change or change in the method of operation? There are some sources with existing ACDPs that can go to a Title V without any physical change as may be implied in "initial startup".

Response:

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 4

Suggested Change #40: General support for reducing emissions in BIPOC communities

Description: Leading with these values, we applaud DEQ in drafting rules and rule language that has not only been decades overdue but also works towards eliminating any regulation that exacerbates or perpetuates disproportionate pollution exposure, especially in low income neighborhoods and communities of color. We urge DEQ to continuously prioritize and protect community health.

Response:

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 9

Suggested Change #41: Staff and resource citizen advocate positions to encourage meaningful community engagement

Description: DEQ should meet federal and state statutory standards of environmental justice (including Title VI of the Civil Rights Act of 1964, Executive Order 12898, and ORS 182.545) by ensuring equal protections and enhanced outreach and engagement for underrepresented communities, including Black, Indigienous, and communities of color, as well as low-income and rural communities, and any other vulnerable populations such as children, the elderly, or people with disabilities. We do agree that the draft rules will more favorably impact environmental justice and racial equity (ie: increased modeling requirement, elimination of PSELs, tech reviews). However, DEQ needs to meet the spirit of its statutory obligation pursuant to ORS 182.545 and continue to build on the many conversations held with communities on meaningful involvement during the Cleaner Air Oregon process. For example, during the CAO rulemaking process, local health authorities and community advocates recommended DEQ fully staff and resource at least one, ideally one per region, Citizen Advocate position to ensure that underrepresented and disproportionately impacted communities have opportunities to meaningfully participate in critical permit and rulemaking processes that will affect their health and lives. We are echoing this request once again. Parallel to this request and perhaps out of the rules scope, but not the air quality program's, DEQ should consider elements that build community capacity to understand the rules and provide risk-translation to communities (i.e. work with community-based organizations to train-up community air quality ambassadors and/or resource a technical expert outside of the agency).

We urge DEQ to improve and implement a transparent air permitting process. We strongly support the continued public health representation and engagement in air quality programs and efforts. Facilitate more meaningful community engagement, educating the public about the permitting process and pollution sources that impact

them, and allowing DEQ to take into account a community's lived-experiences as one of the factors that inform DEQ's permitting decisions.

DEQ should include additional provisions in its rules that facilitate and encourage impacted communities' engagement with DEQ's air permitting work, including:

- Setting requirements for early and continuous outreach to communities that will be affected by DEQ's permitting decisions so that the public can adequately review permits, provide informed feedback and suggestions, and have their questions and concerns addressed by the agency
- Requiring sources to conduct an environmental justice analysis
- Making available plain language explanations of permitting terms and the technical information in airpermits so that the information is accessible to the public
- Directing DEQ to report back to communities within a set timeframe on how their involvement shaped and informed DEQ's permitting decisions

Meaningful community engagement is essential to advancing environmental justice in Oregon's air permitting program because it provides communities with an avenue to understand the potential consequences of permitting decisions, to advocate for community health and safety, and to shape DEQ's decisions. DEQ has a statutory obligation to ensure that its rules facilitate public outreach and actively encourage meaningful community engagement from impacted communities. ORS 182.545(2), (3), (4)(a). ORS 182.545 makes clear that DEQ must do more to provide for meaningful community engagement than offer public comment periods and opportunities to sit on rule advisory committees.

Response: DEQ has initiated a process to hire a new full-time Environmental Justice Coordinator in fall/winter 2022 as a limited duration position. The person in that role will help increase agency capacity for policy analysis and engagement activities centered on environmental justice. DEQ intends to include that EJ Coordinator position as a permanent position in the 2023-25 Agency Request Budget, and DEQ acknowledges your support for this legislative request.

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 9, 22

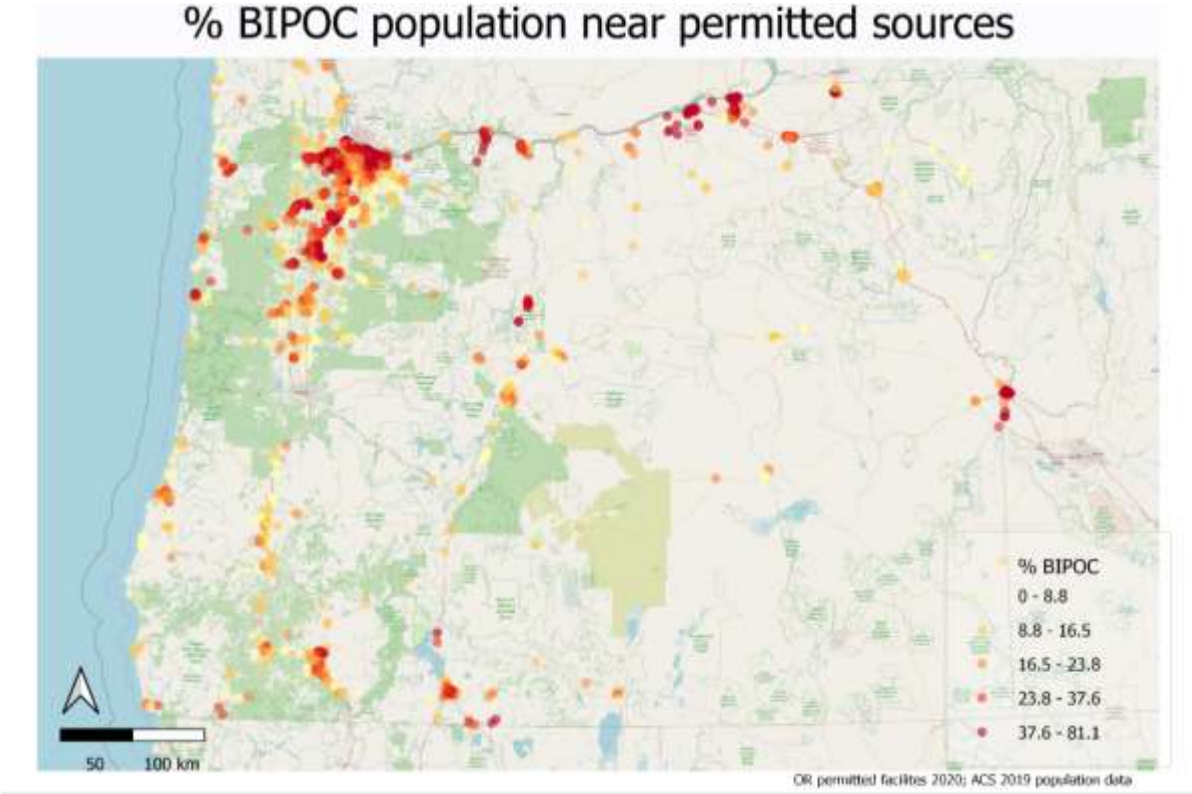
Suggested Change #42: Retain the existing notice of construction structure

Comment: While the regulated community also shares DEQ's goal of protecting air quality and addressing disparate impacts on communities of color and low-income, DEQ has not reasonably demonstrated how the proposed changes to the NIC provisions will streamline the permitting process, protect air quality or address the potential environmental justice concerns raised by DEQ. Narrowing the scope of the Type 1 changes will shift a significant number of Type 1 applications to Type 2 applications and similarly narrowing the scope of the Type 2 changes will shift a significant number of Type 2 applications to Type 3 applications. Under the current rules, Type 1 and Type 2 changes do not have significant air impacts and are often pollution control projects designed to reduce a source's overall emissions or the repair/replacement of necessary equipment to allow the source to continue to operate without any material changes in permitted emissions. The proposed changes will also require DEQ to provide additional resources to review the increased number of Type 2 and Type 3 applications which will result in delays.

Response: DEQ stated that the goals of the proposed rulemaking are to:

- Improve and strengthen our permitting program;
- Enhance community protection, and incorporate Environmental Justice;
- Increase permitting issuance efficiency; and
- Increase regulatory certainty.

DEQ did not state that every proposed rule change meets all of the goals. Some rules meet multiple goals and some rules meet only one goal. Any time a source reduces air pollution, that reduction protects air quality and addresses environmental justice concerns. Numerous studies show that Black, Indigenous and People of Color are disproportionately exposed to air pollution in the U.S. In Oregon, the map of permitted sources show that many sources are located in areas near BIPOC populations.



DEQ cannot control whether a source decides to relocate to states and countries with far less environmentally conscious regulatory practices. It is DEQ's mission to be a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water. In support of that mission, DEQ develops and implements a wide range of pollution controls, including regulating air pollution from the industry and transportation. DEQ cannot sacrifice the health of Oregonians by letting sources emit more air pollution when it can be efficiently and effectively controlled.

Comment: The proposed rule, for the first time, would require businesses to submit notices of construction for routine maintenance, repair and like-kind replacement projects. Such projects have, for sound policy reasons, been exempt from the notice requirements for decades.

Response: DEQ is not proposing to require sources to submit NCs for routine maintenance or repair nor is it requiring pre-construction approval for air pollution controls like HVAC systems. (See the response to Do not require approval for voluntary pollution controls, like HVAC systems comment and the response to Do not eliminate "modification" from the Notice of Intent to Construct rules so as to require NCs for routine maintenance, repair and like-kind replacement projects comment). Based on the comments received for this proposed rulemaking, it is obvious that the regulated community does not understand the NC rules. The NC rules clearly state that NCs are required for replacement of equipment (See OAR 340-210-0225). DEQ is proposing additional clarification regarding replacements.

Comment: We are similarly concerned with DEQ's curtailment of the Type 1 and Type 2 NOC categories. The changes to these categories reflected in the draft rule are likely to cause even basic facility upgrades or repairs to trigger the much of costly and time-consuming Type 3 NOC process, and again, this additional burden on permitted facilities will result in little to no incremental environmental benefit. In general, the revised NOC requirements in the proposed rules and the new "minor source review" program and accompanying MSERT concept will add significant time and costs to almost any minor project, particularly in light of the elimination of Generic PSELs and forced use of PTE to set PSELs.

In fact, it is reasonable to assume the proposed rules could actually prevent facilities from undergoing control technology upgrades that would be a net positive for environmental protection (e.g. in the case of a facility considering replacing an old boiler with a newer, more efficient model) given the additional burden of having to go through Type 3 NOC and the new minor source review program, where before the change being contemplated would have qualified for Type 1 or Type 2 NOC. This is not only inconsistent with the animating purpose of the air quality program, but perversely disincentivizes permitted facilities from making environmentally beneficial changes to their facilities.

The proposed changes to criteria for types of construction and modification are significant. Presently, DEQ staff have difficulty processing modifications under the current rules. The proposed rule changes significantly increase the burden of routine maintenance and repair for existing sources, as well as DEQ staff's workload (without an increase in protection to the environment). Sources must be able to make timely changes. The proposed changes are likely to push projects into higher modification categories, which will take longer to process for both DEQ and the permitted source. The revisions to Type 1 can reasonably be expected to increase efficiency for processing, but the revisions to Types 2 and 3 do not. The scope of Type 2 NOCs is too narrow and the subsequently increases the number of project types that would fall into Type 3 NOCs. Additionally, the proposed NOC changes would significantly increase the fees associated with Types 2 and 3 NOCs. At a time when many industries are struggling to hold off the dangers of leakage to states and countries with far less environmentally conscious regulatory practices, it would be imprudent for DEQ to continue with the proposed changes. NWPPA suggests DEQ move forward with proposed changes to Type 1, but leave Types 2 and 3 unchanged.

Response: DEQ will retain most of the existing NC structure. The threshold for Type 1 NCs will be the current de minimis emission levels rather than the proposed 10 pounds/day of aggregated air pollutants. The threshold between Type 2 and Type 3 will remain at the Significant Emission Rate. With the delayed proposal of the Minor New Source Review program, there should be no significant time or cost added to minor projects with the elimination of Generic PSELs, except for the air quality modeling analysis requirement.

DEQ's Type 1 "notice and go" proposal will not require any kind of DEQ approval so construction can happen sooner for projects that qualify as Type 1. This proposed change will streamline permitting of Type 1 NCs. For equipment that qualifies because its emissions are de minimis, owners or operators can request that DEQ verify that emissions are less than or equal to de minimis levels, giving DEQ 30 days to do so, before commencing

construction. Current rules give DEQ 10 days to approve Type 1 NCs, which is not adequate time to review equipment and ensure that its emissions are de minimis. Thirty days gives DEQ adequate time to review and approve or disapprove the construction.

DEQ is adding the requirement that owners or operators submitting Type 2 NC applications for new or replaced equipment must also submit an air quality modeling analysis. This requirement was included in the proposed rules for Type 3 NC changes but is now limited to new or replaced equipment. This will ensure that construction projects comply with the National Ambient Air Quality Standards. Modeling for a Type 2 and Type 3 NCs is only for the piece of equipment being installed or replaced, not the whole source, and only for the pollutant that is over the Type 2 or Type 3 NC threshold. This modeling can be done with the simple screening model AERSCREEN. DEQ may develop a lookup table, similar to one developed for Cleaner Air Oregon Level 1 risk assessments. This will make the air quality modeling analysis much simpler, saving time and resources for sources and DEQ. The requirement to protect National Ambient Air Quality Standards is a longstanding one. The proposed rules provide clarity for permittees on how this requirement can be met by requiring an air quality analysis as part of a permit application for a new source and existing sources that are renewing their permit if asked to do so by DEQ. If conditions are required in the Type 2 NC approval to ensure that construction projects comply with the National Ambient Air Quality Standards, DEQ has added language that Type 2 NCs can establish state-only enforceable limits on potential to emit. DEQ is making these requirements state-only enforceable because conditions that are federally enforceable require public notice. There is no public notice provision for Type 2 NCs.

Under the current rules, a source could install an emissions unit with emissions up to the Significant Emission Rate as long as the PSEL did not increase. This construction has been done without having to evaluate that emissions unit for potential control technology or ambient air quality impacts. Even though this construction would not be allowed to increase the PSEL, it could still have significant environmental impacts. For example, a source could install a 39 ton/year NOx emissions unit as a Type 2 NC. Air quality modeling of that emissions unit could show that a pollution control device should be added. If that emissions unit were a natural gas boiler, low NOx burners may be required. Without low NOx burners, the ambient air quality impact could be over the 1-hour NO2 standard if located close to a neighborhood. Therefore, DEQ is requiring air quality modeling for Type 2 and Type 3 NCs to ensure that the NAAQS are protected.

DEQ decided to propose the Minor New Source Review program in a future rulemaking. EPA is currently reviewing existing Minor New Source Review programs across the country to identify best practices to strengthen the effectiveness of state Minor New Source Review programs. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements.

The future rulemaking also provides DEQ time to address staffing shortages and training needs for new staff. DEQ is committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions in communities that are underserved and overburdened with a disproportionate impact from air pollution.

Comment: We would also note that these changes make DEQ's assertion that the new rules come with no cost increases to regulated facilities largely specious. By transforming most projects requiring notice to DEQ into Type 3 permitting actions, the effective fee paid by a facility undergoing an upgrade project will increase from the current $720 fee to a minimum of $18,000 (under DEQ's current fee schedules) for each project affected by the proposal. That fee increase is separate from the significant costs that Oregon businesses will incur complying with the new regulatory programs (e.g., Minor Source New Source Review) included with the proposal.

Response: DEQ never asserted that the proposed rules come with no cost increases to regulated facilities (see the Statement of Fiscal and Economic Impact starting on page 26 of the Notice of Proposed Rulemaking. DEQ clearly stated in the Notice that the proposed rules may have a negative impact on sources that would be required to perform air quality modeling and install pollution control equipment. If the source had triggered the previously proposed Minor New Source Review or a permit modification, the fee would depend on the type of modification and not necessarily be $18,000. Only one RAC member supplied information on the cost of complying with the proposed rules - hiring a consultant and the modeling fee, which were included in the Statement of Fiscal and Economic Impact. 2 The Type 2 NC fee ($720) and the permit fees for modification are existing fees in OAR 340-216-8020. Again, with the delayed proposal of the Minor New Source Review program, the type of NC that is required will not change so there will be no significant time or cost added to minor construction projects.

Comment: DEQ's proposed rule will impact facility improvement projects, such as the installation and operation of a thermal oxidizer. Under the current rule, the installation of a thermal oxidizer would be a Type 2 permitting action. Under the proposed rule, the installation of a thermal oxidizer would likely become a Type 3 permitting action. Thermal oxidizers are used to control VOC emissions and combusts natural gas. While VOC emissions would greatly be decreased with a thermal oxidizer, because of the small increase in NO_x emissions due to natural gas combustion, the addition of a thermal oxidizer would be a Type 3 permitting action. As noted above, the Type 3 per- mitting actions are substantially more costly, require significant pre-construction analysis and permitting, with DEQ approval taking approximately 7-10 months additional months.

Response: Review of applications to install pollution control equipment is critical to ensure that the equipment is sized properly and will reduce emissions as stated, especially if the source is using that reduction in emissions to offset increased emissions elsewhere. The control efficiency of the pollution control equipment should be verified through source testing. Emission action levels should be included in the approval to ensure that corrective action is taken to remedy poor performance before a violation can occur. Since DEQ is retaining the NC structure, installation of a thermal oxidizer will likely remain a Type 2 NC.

Comment: Lastly, NWPPA proposes limiting the applicability of emission increases to criteria pollutants rather than regulated pollutants. HAPs and TACs are regulated pollutants but do not have established SERs. Therefore, any project that includes an increase in HAPs or TACs would be above the SER and regulated as a Type 3 change. HAPs and TACs are already regulated under Cleaner Air Oregon, and thus NWPPA would seek clarification as to why it is necessary to address these regulated pollutants in this rulemaking.

Response: The definition of regulated air pollutants includes toxic air contaminants and hazardous air pollutants for OAR chapter 340, division 210, which contains the NC rules. For sources that are not yet called into the Cleaner Air Oregon program and are proposing construction, DEQ must review increases in toxic air contaminant emissions. This may warrant an earlier call-in time for sources that propose an increase that could significantly affect the risk posed by that source. DEQ is developing an updated NC application form to address these regulated air pollutants.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 7, 8, 11, 13, 14, 15, 16, 18, 19, 21

Suggested Change #43: Eliminate Generic PSELs

Description: We strongly support DEQ's proposal to eliminate the use of Generic PSELs for minor sources. See (Proposed) OAR 340-222-0041 (identifying new source-specific PSEL levels). Indeed, such a change is necessary to comply with the Clean Air Act and state and federal requirements to establish rules and permit conditions that will prevent sources from causing or contributing to a violation of an ambient air quality standard.[2] The Generic PSEL system allows emission increases up to the Significant Emissions Rate ("SER") without a permit modification or additional modeling.

To ensure compliance with all NAAQS, and protection of community health, DEQ must have the ability to evaluate emissions increases less than the SER. Eliminating the use of Generic PSELs will allow DEQ to require more frequent modeling from permitted facilities to more accurately assess NAAQS compliance.

In addition, eliminating Generic PSELs will provide greater protection and transparency for communities, and further DEQ's environmental justice goals. The current rules, which often permit sources at levels much higher than they can physically emit, authorize far more emissions in vulnerable communities than are necessary for regulated entities to operate. Further, these rules make it exceedingly difficult for community members to track actual emissions, while limiting opportunities for public notice and engagement when facilities increase emissions. Source-specific PSELs that more accurately reflect actual emissions will provide valuable information to communities, allowing for more informed engagement and more effective advocacy.

In addition, eliminating Generic PSELs will provide greater protection and transparency for communities, and further DEQ's environmental justice goals. The current rules, which often permit sources at levels much higher than they can physically emit, authorize far more emissions in vulnerable communities than are necessary for regulated entities to operate. Further, these rules make it exceedingly difficult for community members to track actual emissions, while limiting opportunities for public notice and engagement when facilities increase emissions. Source-specific PSELs that more accurately reflect actual emissions will provide valuable information to communities, allowing for more informed engagement and more effective advocacy.

Response:

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 22

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[2] See 42 U.S.C. § 7410 (requiring states to adopt a plan to implement, maintain, and enforce the primary and secondary NAAQS that includes "enforceable emission limitations and other control measures" to protect the NAAQS); ORS 468A.025(4)(c) (EQC must adopt "rules . . . to require controls necessary to achieve ambient air quality standards for any source that is a substantial cause of any exceedance or projected exceedance in the near future of NAAQS or visibility requirements."); OAR 340-226-0140(1) (DEQ must establish permit requirements "to prevent violation of an ambient air quality standard caused or projected to be caused substantially by emissions from [a] source as determined by modeling, monitoring, or a combination thereof.").

Suggested Change #44: Apply Minor NSR to more minor sources and include VOCs and CO

Description: While we support DEQ's proposal to apply Minor NSR to Type 3 Notice to Construct applications and permit applications and permit modifications presenting an equivalent emissions increase, we believe that more minor sources should undergo Minor NSR. We encourage DEQ to require every existing minor source to undergo Minor NSR at least once.

DEQ should not exempt "[a]n individual device or activity that emits CO, VOC, or fugitive particulate matter" from Minor NSR. Proposed OAR 340-224-0300(1)(c). While we understand that the rules are aimed at preventing NAAQS exceedances, DEQ's obligation to protect air quality and public health, particularly for sensitive populations, is much broader. Moreover, if a device emits a covered criteria pollutant or HAP, it should not be exempted from Minor NSR altogether simply because it also emits CO, VOC, or fugitive PM. But as drafted, the rules would appear to put such devices wholly outside the scope of Minor NSR. We urge DEQ to correct what we hope is a drafting error.

In order to be complete in its quest to insure that the NAAQS are achieved for all pollutants, DEQ should also consider establishing minor source SERs for CO and VOCs. The NAAQS for CO are already short term in nature as is that for ozone. Since VOCs are a precursor to ozone formation it might be prudent to establish a minor source SER for VOCs since one is being established for NO_x, the other precursor to ozone. Maybe the ozone impact calculations in OAR 340-224-0520 will cover any VOC increases or could be used if a minor source SER for VOCs is established.

The proposed rules list a number of presumptive Minor Source Emission Reduction Technologies (MSERT) which when applied to new construction would relieve the source of having to do a control technology review. I doubt this list is all inclusive at this point and DEQ should add any other controls that commenters may make, after analysis. I also wondered why RTOs, RCOs, and biofilters were not included on the list of MERT.

Response: DEQ decided to propose the Minor New Source Review program in a future rulemaking. EPA is currently reviewing existing Minor New Source Review programs across the country to identify best practices to strengthen the effectiveness of state Minor New Source Review programs. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements.

The future rulemaking also provides DEQ time to address staffing shortages and training needs for new staff. DEQ is committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions in communities that are underserved and overburdened with a disproportionate impact from air pollution.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 1, 22

Suggested Change #45: General support for Minor NSR requirements of modeling and technology review

Description: We strongly support the proposed rule change to create a new, lower significant emission rate (SER) for minor sources that triggers a requirement for minor sources to undergo Minor New Source Review and the air quality analysis and technology review that the program involves.

Response: DEQ decided to propose the Minor New Source Review program in a future rulemaking. EPA is currently reviewing existing Minor New Source Review programs across the country to identify best practices to strengthen the effectiveness of state Minor New Source Review programs. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements.

The future rulemaking also provides DEQ time to address staffing shortages and training needs for new staff. DEQ is committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions in communities that are underserved and overburdened with a disproportionate impact from air pollution.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 22

Suggested Change #46: General support for air quality modeling for new and renewed permits

Description: If DEQ is really intent upon determining and maintaining compliance with the NAAQS as this proposed rulemaking states, then, in addition to new sources, DEQ should require, not if requested, all Title V and Standard ACDPs to perform modeling of their proposed emissions at their next renewal or next significant permit modification. It seems very inconsistent with regard to NAAQS protection to require air quality analysis if a minor source SER is exceeded while not requiring such when total facility emissions exceed the major source SER and/or Title V levels. With all the modeling that is being required of these sources through the Cleaner Air Oregon program it seems that modeling the criteria pollutants could easily be piggybacked onto the CAO efforts, assuming the same models and protocols can be used. Even if the CAO modeling procedures cannot be used, it is about time that DEQ evaluated the air quality through modeling around all the Standard ACDP and Title V sources. I know this will put a terrific strain on the workload of the existing DEQ modeling review staff so I believe that DEQ should proceed to ask for a staff increase in this area during the next budget cycle.

We support the rule changes that will result in more sources doing air quality analysis (modeling). It is critical for DEQ to get a more accurate picture of emissions from Oregon's existing sources. As DEQ has acknowledged, modeling shows that it would be possible under the existing rules for a minor source to release pollution that would cause a NAAQS exceedance without having to conduct any air quality analysis. For this reason, we support the provisions in (Proposed) OAR 340-216-0040 requiring all applicants for new or renewed air permits to submit air quality analysis to demonstrate that the source's emissions will not cause or contribute to an exceedance of an ambient air quality standard.

We also support the addition of language giving DEQ the authority to ask any source for an air quality analysis if DEQ determines that such information is reasonably required to regulate sources, and to set a reasonable date certain by which the source must provide the analysis. See (Proposed) OAR 340-214-0110.

Response: DEQ agrees that protecting the National Ambient Air Quality Standards is important for existing sources. Existing sources called in by Cleaner Air Oregon have been advised of the option to perform air quality

modeling to demonstrate the NO_2 and SO_2 1-hour NAAQS and the $PM_{2.5}$ 24-hour NAAQS are protected. Because these sources are currently conducting modeling for risk assessments, this modeling can also be used to determine if the short-term NAAQS are protected, saving time and resources for both industry and DEQ.

When determining when modeling will be required, DEQ will take its staff resources into account so that permit renewals and construction approvals are not delayed by this work. DEQ will exercise its reasonable discretion to determine, based on the information available regarding a source's emissions, whether it has sufficient information to conclude with reasonable assurance that the source will not violate the NAAQS. If DEQ cannot reach such a conclusion, then it will require the source to conduct modeling.

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 1, 22

Suggested Change #47: General support for modeling or monitoring to determine NAAQS exceedance or violation

Description: We support the new language clarifying that DEQ may use monitoring or modeling or require a source to conduct monitoring or modeling to determine whether the source's emissions will cause or contribute to a NAAQS exceedance or violation of any ambient air quality standard. See (Proposed) OAR 340-226-0140(1).

OAR 340-226-0140(1)

In the proposed revisions, DEQ can complete, or require a source to complete, modeling or monitoring to determine whether the source's emissions are causing or contributing to an exceedance or a violation of an ambient air quality standard. DEQ should only require such modeling or monitoring if there is a reasonable basis to conclude the source's actual emissions are causing or contributing to an exceedance or a violation of an ambient air quality standard. Sources that have Basic, General or Simple Permits should not be subject to additional modeling or monitoring absent actual evidence that the source's actual emissions are causing an exceedance of the NAAQS. Finally, sources should first have the opportunity to model whether exceedances have occurred before being required to conduct actual monitoring.

Response:

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 16, 22

Suggested Change #48: Support MSERT but needs more teeth

Description: We support the proposal to require new minor sources emitting pollution above the Minor Source SER and existing minor sources planning to increase their emissions above the Minor Source SER to perform a technology review and install Minor Source Emission Reduction Technology (MSERT). But we urge DEQ to give the technological requirements more teeth.

DEQ should narrow the exceptions that allow minor sources to decline to install the best available technology. The rules contain many undefined terms ("feasible," "economic impacts," "cost-effectiveness") that could be interpreted so broadly that they would render the MSERT requirement meaningless. DEQ should either define these terms narrowly or remove them altogether from the proposed rules.

We also support the concept of Presumptive MSERT, which allows a source to be spared the expense of conducting a facility-specific technology review by choosing instead to install a pre-approved piece of pollution control technology. We support the changes to the proposed rules to specify the control efficiencies and chemical content of the technologies on the Presumptive MSERT list. As we requested in our last set of comments during the Rulemaking Advisory Committee process, some of these requirements do not represent the best available technology and should be tightened.

Specifically, we are concerned that the phrase "collection of all equipment exhaust" to describe the baghouse technology is not sufficiently specific. To meet Presumptive MSERT, a baghouse should have to satisfy "permanent total enclosure meeting the performance specifications of EPA's Method 204." In addition, selective catalytic reduction (SCR) for NO_x should require a control efficiency of 95%, not 80%.

Response: DEQ decided to propose the Minor New Source Review program in a future rulemaking. EPA is currently reviewing existing Minor New Source Review programs across the country to identify best practices to strengthen the effectiveness of state Minor New Source Review programs. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements.

The future rulemaking also provides DEQ time to address staffing shortages and training needs for new staff. DEQ is committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions in communities that are underserved and overburdened with a disproportionate impact from air pollution.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 22

Suggested Change #49: Support making the Minor Source SER the dividing line between Type 2 and Type 3 NCs.

Description: We support making the Minor Source SER the dividing line between Type 3 NCs, which trigger Minor Source NSR, and Type 2.

Response: DEQ decided to propose the Minor New Source Review program in a future rulemaking. EPA is currently reviewing existing Minor New Source Review programs across the country to identify best practices to strengthen the effectiveness of state Minor New Source Review programs. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements.

The future rulemaking also provides DEQ time to address staffing shortages and training needs for new staff. DEQ is committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions in communities that are underserved and overburdened with a disproportionate impact from air pollution.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 22

Suggested Change #50: Support Type 3 NC for changes in NAICS/SIC codes.

Description: We support requiring a Type 3 NC, as opposed to a Type 1 or Type 2, for any proposed modification involving a change in the source's NAICS/SIC code change. A change in the source's activities or purpose is potentially significant enough to warrant taking a close look at the facility.

Existing sources across the country are pivoting to new activities with very different environmental implications. For example, cryptocurrency mining operations are buying up all kinds of existing industrial sources to convert them to do obscenely energy-intensive cryptocurrency mining, with little benefit to society. This kind of pivot should not go unexamined by DEQ.

Response: DEQ is proposing to remove the requirement for a Type 3 NC for a change in the source's primary SIC/NAICS code. The original intention of the use of SIC code was for the determination of whether a physical location containing multiple related business entities constituted a single source for air quality permitting. As discussed in the introduction to the 1987 Standard Industrial Classification Manual, each establishment is to be classified according to its primary activity – not multiple secondary activities. DEQ has attempted to adapt SIC and NAICS codes as a tool for determining whether a modification triggers a permitting action. Requiring a Type 3 change for any addition of a source that may be considered to be subject to a new SIC/NAICS code may lead to unintended consequences. As an example, based on past DEQ permitting history, the addition of a boiler for building heat to a facility that had never had a boiler previously would require a Type 3 notification because DEQ has historically used SIC code 4961 to represent boilers regardless of the primary SIC code of the facility. This type of nuance cannot be clearly outlined in rule as many exemptions of this kind could apply.

DEQ wrote an Internal Management Directive titled "Notice of Intent to Construct IMD" that directs permit writers, in part, to:

- Notify the source, within the appropriate timeline, that a change in the primary SIC/NAICS code for a source cannot be approved under a Type 1 or Type 2 NC.
- Inform the source that it must:
    - Request a permit modification if the new SIC clearly supports the permitted major industrial group; or
    - Submit a new permit application if the new activity (i.e., different primary SIC/NAICS) does not satisfy the criteria of "source" in the current permit but keep the source number the same; and
    - Submit a new LUCS.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 22

Suggested Change #51: Support 10-year permit terms for General, Basic and Simple ACDPs

Description: We support DEQ's proposal to maintain a maximum ten-year duration for Basic and General ACDPs, while extending the maximum duration for Simple ACDPs to ten years. See (Proposed) OAR 340-216-0056(4)(d); (Proposed) OAR 340-216-0060(1)(b)(D); (Proposed) OAR 340-216-0064(3)(e). DEQ originally proposed to issue permits without expiration dates to sources in these categories—a proposal we strongly opposed. DEQ's explanation for considering these "forever permits" rested largely on the assumption that most facilities change little between permit issuance and renewal. However, this assumption failed to account for external factors such as:

- Increases in ambient concentrations of pollution around the source due to other sources of pollution
- Changes in legal standards (e.g., NAAQS or HAPs)
- Zoning changes or residential development near the permitted facility, making the emissions more of a threat to public health
- New scientific developments that could change the understanding of pollution impacts

Because of these potential circumstantial changes in and around permitted facilities, it is critical that Basic, General, and Simple ACDPs include reasonable expiration dates, to ensure DEQ and the public have regular opportunities to assess a source's activities and impacts. DEQ's proposed expiration periods for these permits are sensible.

Response:

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 22

Suggested Change #52: Do not downgrade a source's permit to a less complex permit type

Description: We support the proposed rule authorizing DEQ to determine that a source is ineligible for an otherwise applicable ACDP and to require a different type of permit. See (Proposed) OAR 340-216-0025(7). The current and proposed rules that sort sources into permit categories do not account for the fact that other features of a particular source—such as its proximity to environmental justice communities (some of which may be cumulatively impacted by multiple emissions sources) or unique aspects of its operations—may mean that it presents a greater risk than other similar industrial sources. We support DEQ's proposal to give the agency discretion to take a closer look at sources that may pose an unusually heightened risk to public health or welfare based on a clear set of criteria, and to require such sources to obtain a higher-level permit if warranted. DEQ's proposed approach is a sensible way to address outliers within source categories and to ensure that the public is adequately informed and protected.

However, it is not abundantly clear to us whether DEQ intends this proposed rule to give DEQ discretion to downgrade a source's permit (allowing a source to use a Simple permit instead of a Standard, for example) based on the same identified factors. We would oppose giving DEQ that authority, as we believe the rules specifying which types of sources must obtain each kind of permit represent the base level of risk posed by each source

category. DEQ should clarify that this rule authorizes DEQ only to require a higher-level permit than the base permit for which an applicant qualifies.

We also urge DEQ to be transparent about its decision-making, and to post on its website a short, written statement for each source explaining why the source was required to obtain the type of permit DEQ decided it should hold. This will help communities—particularly those overburdened by air pollution—understand the ways in which DEQ is exercising its discretion in regulating pollution sources.

Response: Currently, the criteria for determining whether a source should be on a Simple or Standard ACDP includes:

> (A) The nature, extent, toxicity and impact on human health and the environment of the source's emissions;
> (B) The complexity of the source and the rules applicable to that source;
> (C) The complexity of the emission controls, potential threat to human health and the environment if the emission controls fail, and the source's capacity;
> (D) The location of the source and its proximity to places where people live and work; and
> (E) The compliance history of the source.

DEQ's proposed rules establish these criteria as available considerations for every Division 216 permit, not just Simple and Standard ACDPs. It should be noted that there are minimum established permit requirements that would not allow DEQ to move a source 'down' in permit classification. For example, OAR 340-216-0025(5)(a) states, "Owners and operators of sources and activities listed in OAR 340-216-8010 Part B that do not qualify for a General ACDP and are not required to obtain a Standard ACDP must, at a minimum, obtain a Simple ACDP." Thus DEQ would not be able to use the criteria referenced to move a Simple ACDP source to a Basic or General ACDP. The only exception is a source that has obtained a Standard ACDP and is subject to part B of OAR 340-216-8010 Table 1 (as opposed to part C), which may be required to obtain a Simple ACDP. Note that this discretion between Simple and Standard is present in the existing rules.

With the proposed rule changes, DEQ would be able to:

- Require an existing Basic or General ACDP to obtain a Simple or Standard ACDP.
- Require an existing Simple ACDP to obtain a Standard ACDP.
- Require an existing Standard ACDP to obtain a Simple ACDP.

The location of the source and its proximity to places where people live, work and play includes proximity to environmental justice communities. The complexity of the emission controls, potential threat to human health and the environment if the emission controls fail, and the source's capacity addresses unique aspects of a source's operations, such as risk.

The Review Report, which tells the "story" of the permit and is the basis for the legal requirements in the permit, explains why the source was assigned to a particular type of permit using the above criteria. The widespread use of this criteria for all types of ACDPs will ensure agency consistency across the state so that similar sources are on the same type of permit, or a different type of permit if warranted. The type of permit a source is on is directly linked to the amount of time and oversight needed to ensure compliance. If DEQ finds that a source's requirements warrant a less complex permit or a more complex permit based on the criteria, then that permit will be issued.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 22

Suggested Change #53: General support for LUCS requirement

Description: We support DEQ's proposal to require applicants for certain permits and notices to construct to provide a Land Use Compatibility Statement (LUCS) or, in instances where the local planning jurisdiction declines to provide a LUCS determination, an independent analysis demonstrating that the application or notice complies with statewide planning goals and the relevant comprehensive plan. See (Proposed) OAR 340-210-0230(1)(o)(B) (Type 1 and 2 NCs); (Proposed) OAR 340-216-0040(1)(a)(M)(ii) (New ACDPs); (Proposed) OAR 340-218-040 (Title V Permits). Such an analysis is essential to safeguarding the health and welfare of Oregon communities, and should be required even when the local jurisdiction declines to make the determination.

Response:

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 22

Suggested Change #54: General support to require TRI Information

Description: We support the proposed rule requiring applicants for new ACDPs and Title V permits to provide, when applicable, the most recent information reported through EPA's Toxics Release Inventory program. See (Proposed) OAR 340-216-0040(1)(A)(n); (Proposed) OAR 340-218-0040(3)9M). This information will support more informed decision-making and analysis by both DEQ and the public.

Response:

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 22

Suggested Change #55: General support to require construction in accordance with approved plans

Description: We support the proposed requirement that permittees construct and operate their facility in accordance with approved plans and specifications submitted in their application. See (Proposed) OAR 340-216-0020. The approval process would be rendered meaningless if sources were not bound to construct and operate as approved by DEQ. It is important that this be made explicit in these rules, and that DEQ be given authority to bring appropriate enforcement action when this rule is violated.

Response:

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 22

Suggested Change #56: General support on clarification to prohibit violating permit conditions

Description: We support the proposed clarification that an owner or operator of a source may not violate any conditions in that source's ACDP. See (Proposed) OAR 340-216-0020(8). We applaud DEQ for taking this step to make enforcement of Oregon's air pollution laws more simple and straightforward.

Response:

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 22

Suggested Change #57: General support for expanded use of Short-Term Activity ACDP

Description: We support DEQ's proposal to expand the Short-Term Activity ACDP categories to allow DEQ to regulate some additional types of planned short-term activities. See (Proposed) OAR 340-216-0054(1). However, we urge DEQ to modify the rules to avoid unintended results. Specifically, the rules should make clear that emissions authorized by a Short-Term Activity ACDP count towards a source's PSEL, and that a Short-Term Activity ACDP cannot be granted if the short-term emissions would increase an existing source's emissions above its PSEL.

Short Term Activity ACDPs (OAR 340-216-0054)

The Coalition supports the proposed addition of Short Term Activity ACDPs in OAR 340-216-0054. We believe that this is a constructive change to the rules. However, we are concerned that there could be activities appropriate for coverage under a Short Term Activity ACDP that cannot be reasonably accomplished in 120 days (i.e., the initial term plus the single allowed extension). For example, an extended pilot study of an innovative control device can often take longer than 120 days and yet is not appropriate for coverage under any other type of ACDP. For this reason, we suggest that DEQ draft the rules so that it is able to grant, at a minimum, two 60 day extensions and, preferably, up to one year of aggregate coverage under a Short Term Activity ACDP. The Department can approve or disapprove of an extension depending on the need. However, limiting the permit to a 60 day period and single 60 day extension unnecessarily constrains the agency's discretion.

Response: Short-Term Activity ACDPs can be issued to both permitted and unpermitted sources. If the Short-Term Activity ACDP is issued to a permitted source, DEQ agrees that the emissions from the short-term activity should be included in determining compliance with PSELs and Source Risk Limits.

Some of the proposed activities allowed under a Short-Term Activity permit may take longer than 60 days to complete but some should not. DEQ has added language to clarify that DEQ retains the authority to deny a renewal application for a Short-Term Activity permit. Existing rules allow Short-Term Activity permits only for unexpected or emergency activities; DEQ believes the proposed change, to broaden the use of the permit type, is an appropriate first step. After these rules have been in place for some time and additional use (and requested/desired use) of this permit type has been assessed, DEQ may agree that the timelines should be further expanded and include such a change in a subsequent rulemaking.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 16, 20, 22

Suggested Change #58: General support for terminating a construction permit or approval

Description: We support DEQ's proposal to expand the grounds under which a permit will be terminated, to include failure to commence construction within 18 months of approval. See (Proposed) OAR 340-216-0082(2)(e). We further support the proposed rule terminating construction approval when construction is not commenced within 18 months or an alternative DEQ deadline, when construction is discontinued for a period of 18 months or more, or when construction is not completed within 18 months of the anticipated date of construction completion in permittee's application. See (Proposed) OAR 340-216-0082(2)(e)(A). Circumstances can change significantly within an 18-month period, and it is reasonable in these situations to require a permittee to re-apply for construction approval after that time so DEQ and the public can perform an up-to-date assessment of air quality impacts and public health risks.

Response:

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 22

Suggested Change #59: General support to limit excess emissions

Description: We support DEQ's proposal requiring a source to reduce or cease operations immediately when an excess emissions event occurs unless specified circumstances are present. See (Proposed) OAR 340-214-0330. The rules released for public comment are drafted more clearly than a first draft released during the rulemaking process, and successfully address a significant issue in Oregon's current regulations relating to excess emissions. Specifically, Oregon's current rules plainly contemplate a source operating for up to 48 hours after excess emissions are identified. OAR 340-214-0330(3) ("If there is an on-going period of excess emissions, the owner or operator must cease operation of the equipment or facility no later than 48 hours after the beginning of the excess emission period, if the condition causing the emissions is not corrected within that time."). And during its Rulemaking Advisory Committee presentation on this issue, DEQ identified instances where sources have pointed to this regulatory language as a defense against enforcement actions. Clearly, it is important to modify this

regulatory language to protect communities from ongoing periods of excess pollution, and to clarify the regulated community's obligations during these events.

The default obligation for facilities in these circumstances should be shifted, along the lines proposed by DEQ. Under the current rules, DEQ has the authority to require immediate shutdown. OAR 340-214-0030(2). But absent such an order, facilities may continue operating—and exceeding permit limitations—for up to 48 hours. Given the potential health and environmental risks posed by these events, facilities should not be authorized to continue operating unless and until receiving a contrary order from DEQ. Instead, the default required action in these instances should be for facilities to cease or reduce operating immediately, unless DEQ explicitly approves continued operations pursuant to narrowly defined exceptions. DEQ's proposed changes to OAR 340-214-0330(2) successfully address this important issue.

Response:

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 1, 22

Suggested Change #60: Correct drafting errors

Description:

- #85 in the list of Part B sources in OAR 340-216 should read ...."the capacity to emit 5 or more tons". The word "of" in the proposed rules seems incorrect.
- (Proposed) OAR 340-225-0030(1) should have a period at the end of the sentence, rather than a semicolon
- (Proposed) OAR 340-210-0225(3)(b) should begin "The construction would not result in an increase…"
- (Proposed) OAR 340-216-0060(3)(b), listing the fees for General ACDP sources, is missing subsection (W)
- In (Proposed) OAR 340-216-0040(2), there are two subsection (a)'s
- Division 200 definition of MSER contains a typo for the amount of SO_2 in option two. It currently lists it as 510 tpy.
- OAR 340-216-0040(1)(a)(M): suggest introducing the LUCS acronym here after the term is first used in division 216.
- Division 200 definitions 105, 106 and 107: Should the words operating permit be capitalized? They are capitalized as used in division 218 (i.e., that division uses the term "Oregon Title V Operating Permit").
- OAR 340-210-0240(1)(a) last sentence refers to a "Type 1 NC". Suggest changing that to "Type 1 change" and/or defining NC as an acronym in division 200.
- OAR 340-218-0080(6)(c)(C): Suggest consistent reference to CFR as done in (7) – 40 C.F.R Part 64.
- OAR 340-238-0040(4): Does DEQ want to update the definition to the July 1, 2022 edition or will that be in a separate federal standards rulemaking? Same for the definition in division 244.
- Revised OAR 340-216-0025 describes various types of ACDPs but fails to note a Standard ACDP duration in OAR 340-216-0025(6)(b)(D) whereas the Simple ACDP duration is given in OAR 340-216-0025(5)(b)(D).The duration of Basic and General permits are also not shown in OAR 340-216-0025. However, OAR 340-216-0056, -0060, -0064, and -0066 do give the permit durations for the 4 types of ACDPs.

DEQ proposes to include a requirement to commence construction within 18 months of approval, or other date approved in writing by DEQ. DEQ also proposes to terminate construction approval for a number of listed reasons, including construction not commencing within the approved timeframe, construction discontinuing for a period of 18 months or more; or construction not completing within 18 months of the anticipated date of construction completion in the application. The language requiring the submittal of request to extend the construction commencement deadline or the construction completion date uses ambiguous language. The proposed rule OAR 340-210-0240(4)(b) is:

(b) The owner or operator may submit a request to extend the construction commencement deadline or the construction completion date by submitting a written, detailed explanation of why the source could not commence or complete construction within the initial 18-month period. DEQ may grant for good cause one 18-month construction approval extension.

The proposed language requires the submission of a written, detailed explanation of why the source could not commence or complete construction with the initial 18-month period. The initial 18-month period only apples to the commencement construction deadline. The construction completion date would not necessarily occur during the first 18 months. In addition, the granting for good cause of one 18-month construction approval extension applies only to the initial construction approval and not the construction completion date provided in the application. LRAPA suggests DEQ clarify rule language related to the complete construction date.

- OAR 340-216-0082: Suggest changing the title of the rule to Expiration, Termination, Reinstatement, or Revocation of an ACDP
- OAR 340-216-0025(2): Suggest changing from Renewal Permits to Permit Renewals or ACDP Renewals.

Response: For clarity, DEQ proposes to spell out Land Use Compatibility Statement for the first use then the acronym later in this rule. DEQ has made the suggested changes to the proposed rules.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 1, 4, 22

Suggested Change #61: Consider the Environmental Justice Impacts of Permitting Decisions

Description: We urge DEQ to add clear rule language that establishes a framework and requirement for environmental justice considerations to direct the agency's permitting decisions so that communities are not further burdened by air pollution. DEQ's air permitting decisions should aim to eliminate the disparities that have led to some of Oregon's communities disproportionately carrying the burden of cumulative impacts of the pollution coming from DEQ-regulated facilities. Communities overburdened by air pollution need reductions in current and future emissions, and those much needed, and long-overdue reductions will likely not happen without rule language integrating environmental justice into DEQ's permitting decisions.

The proposed rule revisions provide DEQ with significant discretion in deciding the type of permit facilities must acquire, requiring additional information or analysis in connection with a permit application or Notice to Construct application, attaching additional permit conditions, and approving or disapproving permits. While it is permissible under current rules, and indeed statutorily required, for DEQ to use environmental justice

considerations to inform how the agency exercises its discretion in permitting decisions, clear rule language will ensure that environmental justice is factored into DEQ's permitting decision framework.

The legislature provided plain, explicit instructions that, "[i]n making a determination whether and how to act, [a natural resources agency must] consider the effects of the action on environmental justice issues." ORS 182.545(1); see also S. Con. Res. 17 (Or. 2021) (declaring the Legislative Assembly's intent that ORS 182.545 "apply to all state agencies and all policy decisions"). There is no basis for reading this broad directive as being limited to the agency's decisions about what rules to promulgate; by its plain language, it applies to all "determination[s] whether and how to act[.]" Id. To give effect to this legislative directive, DEQ should add a new provision to its air permitting rules that tracks the language of ORS 182.545: "In exercising discretion conferred by these rules related to air quality and permitting, DEQ will consider the effects of its actions on environmental justice issues."

To help build public trust and understanding of agency decision making, we also strongly encourage DEQ to incorporate rules that provide transparency as to how environmental justice analysis informs DEQ's permitting decisions. DEQ actions in other contexts underscore why this transparency is important. For example, in the Regional Haze context, DEQ drafted rules that provided it with strong tools to require the sources in environmental justice communities to install pollution control technology and reduce emissions. DEQ asked for and received community support for those rules under the pretense that the agency would use them to achieve meaningful pollution reductions, including at Owens-Brockway, a Portland facility with a history of noncompliance and a massive polluter in an environmental justice community. But DEQ ultimately opted not to use these new tools. Instead of requiring Owens-Brockway to install pollution controls, DEQ exercised its discretion to offer the facility reduced plant site emissions limits that resulted in no actual emissions reductions as an alternative means of complying with the Regional Haze program. See generally Oregon Regional Haze State Implementation Plan, Feb. 3, 2022, § 3.6.1; id. § 3.7.5.1; Earthjustice, Owens-Brockway: An Environmental Justice Problem in Portland (Sep. 2021), https://earthjustice.org/sites/default/files/files/2021.09.23_portland_air_pollution.pdf. Despite claiming to have done an environmental justice analysis as part of its development of Oregon's Regional Haze State Implementation Plan, DEQ's environmental justice analysis bore no discernable relationship to its decision-making around facilities like Owens-Brockway, resulting in no actual emissions reductions for environmental justice communities. In its current proposed rules, DEQ must explicitly connect its environmental justice analyses to its air permitting decisions.

Response: DEQ is committed to the principles of environmental justice and to ensuring that the agency's actions – including permitting, cleanup, policy and planning, outreach and education, and compliance and enforcement – address the interests of Oregon communities, especially minority, low-income and other traditionally underrepresented communities, as much as state and federal laws allow. DEQ adopted an Environmental Justice Policy in 1997 to guide the agency's work, including principles for making environmental equity inherent in the way DEQ does business. Some recent DEQ actions to ensure environmental justice include:

- Working with local environmental justice groups and others to reduce diesel emissions and improve air quality to protect those most at risk from air pollution.
- Building stronger relationships with tribal nations to understand the impact of DEQ's actions on tribal communities and lands.
- Working with the Confederated Tribes of the Umatilla Indian Reservation, other tribal nations and the federal Environmental Protection Agency to strengthen protections for people who eat fish from Oregon waters by increasing the "fish consumption rate" in state water quality standards.
- Participating in a collaborative partnership to improve the environmental health of nail salon workers and customers, many of whom are Vietnamese and African American, through education and outreach.

- Cleaning up contaminated lands around the state that pose risks to people's health, many of which exist in low-income and minority communities.
- Developing partnerships with the Oregon Public Health Division, especially to provide information about environmental health to people who might not be familiar with DEQ's work.
- Creating opportunities for people to share their comments and concerns directly with the Oregon Environmental Quality Commission when they hold meetings around the state.

To augment these efforts, DEQ is now:

- Working to enhance public participation in the agency's actions and ensure the meaningful involvement of people who may be affected by these decisions, as directed by Senate Bill 420 passed by the 2007 Oregon Legislature.
- Developing an agency plan to address language access disparities for people using DEQ's services, including ways the agency can provide important environmental and public health information to people with limited English proficiency.
- Providing training for DEQ employees to raise awareness about environmental justice issues and what each employee can do to help ensure environmental equity in DEQ's work.
- Building a more diverse workforce within DEQ to ensure better sensitivity to Oregon's diverse communities.

DEQ will be updating the 1997 agency-wide Environmental Justice policy, after which, the Air Quality Division will propose rulemaking to incorporate the updated policy.

Response Type: DEQ agrees. No changes to rules were needed

Comment IDs linked to this Suggested Change: 22

Suggested Change #62: General opposition to for air quality modeling for new and renewed permits

Comment: In the Notice of Proposed Rulemaking packet, DEQ states that one of the purposes of its proposed changes is to address environmental justice issues. DEQ has not demonstrated that a problem currently exists within any community that these rule changes would actually "fix" and has not justified the health or environmental need for the proposed rules.

We are concerned with the scope of modeling being proposed, both under the new source minor source review program, and in OAR 340-216-0040 for permit renewals and modifications. We absolutely agree that modeling is reasonable when a project is reasonably likely to cause a NAAQS exceedance, when a NAAQS is changed, or when a modified facility's controlled emissions are in excess of the Minor Source SER. However, what DEQ is proposing goes far beyond this, and would give DEQ almost unfettered discretion to require modeling for almost every minor modification or permit renewal. Again, the burden of this requirement is disproportionate to the prospective benefit, making it more difficult for facilities to operate effectively in this state without meaningfully protecting human health and air quality.

Response: DEQ is required by the Clean Air Act to ensure that the National Ambient Air Quality Standards are protected. The Clean Air Act is the comprehensive federal law that regulates air emissions from stationary and

mobile sources. Among other things, this law authorizes EPA to establish National Ambient Air Quality Standards to protect public health and public welfare and to regulate emissions of hazardous air pollutants.

The Oregon Revised Statute (ORS 468A.010 Policy) states:

> (1) In the interest of the public health and welfare of the people, it is declared to be the public policy of the State of Oregon: (a) To restore and maintain the quality of the air resources of the state in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state.
>
> (b) To provide for a coordinated statewide program of air quality control and to allocate between the state and the units of local government responsibility for such control.
>
> (c) To facilitate cooperation among units of local government in establishing and supporting air quality control programs.
>
> (2) The program for the control of air pollution in this state shall be undertaken in a progressive manner, and each of its successive objectives shall be sought to be accomplished by cooperation and conciliation among all the parties concerned. [Formerly 449.765 and then 468.280]

A "progressive manner" for the control of air pollution in the state would not warrant DEQ waiting until an area becomes a nonattainment area before requiring emission reductions. Nonattainment area requirements can be severe, and DEQ does not want EPA to designate any area in the state as nonattainment because of the regulatory burdens needed to comply with the NAAQS. In order to prevent areas from becoming nonattainment areas and ensure that the National Ambient Air Quality Standards are protected, DEQ proposes clarifications to the rules on when air quality modeling is required.

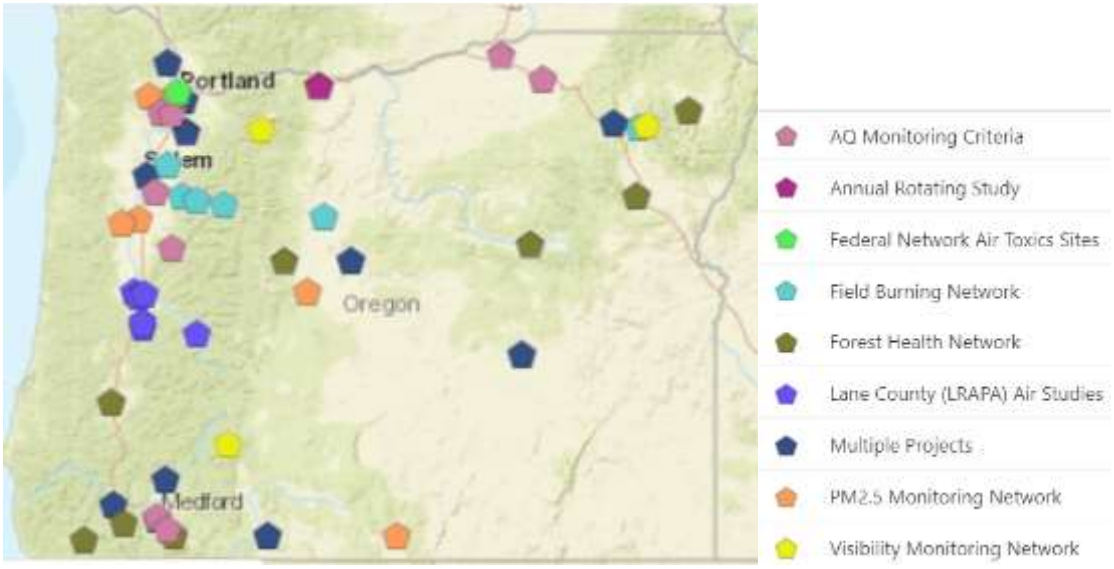
Numerous studies show that people of color are disproportionately exposed to environmental pollution, including air pollution, in the U.S. In Oregon, the map of permitted sources shows that many permitted sources (sources in Lane County are not included in the map) are located in or near areas with greater proportional populations of people who are Black, Indigenous, and People of Color. These numbers are preliminary and based on 2016 data. Screening analysis by Cleaner Air Oregon indicates that the emissions from facilities pose the greatest health risk to people residing within a one kilometer radius of the facility. As the map indicates, people who are Black, Indigenous, and People of Color are more likely to live close to permitted facilities. Based on the fact that many permitted sources are located within 1 kilometer of BIPOC communities, requiring any reductions in emissions from those sources would improve the health of BIPOC communities.

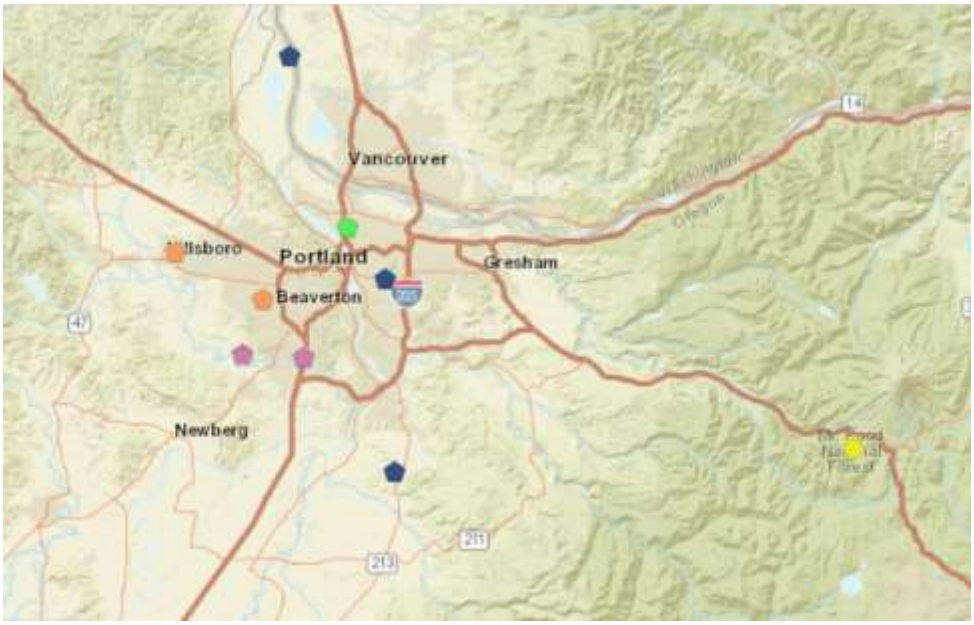
Youth are especially vulnerable to respiratory illness associated with air pollution. For children who live, play, or attend school nearby industrial facilities, the simple act of stepping outside can become a health hazard.

To protect and enhance the quality of Oregon's environment, the Air Quality Monitoring Section of the DEQ's Laboratory and Environmental Assessment Division is responsible for providing accurate scientific data concerning Oregon's air quality. DEQ ensures that the state meets the National Ambient Air Quality Standards for criteria pollutants as required by the Federal Clean Air Act. The agency also monitors hazardous air pollutants (or air toxics) to track trends and presents near real time air quality data to inform public health decisions.

DEQ measures air pollutant levels by operating a network of air monitoring and sampling equipment at more than 40 sites throughout the Oregon. These sites are operated and maintained by DEQ air monitoring technicians with the goal of collecting complete and accurate air quality data. The equipment at an air monitoring station can vary from a complex array of continuous monitors operating 24 hours a day year-round to a single sampler with a filter that captures particulates once a week. Meteorological data provides important information to determine the sources and transport of air pollutants. Most of the data collected from the air monitoring network is submitted to the U.S. Environmental Protection Agency database for use in determining air pollution trends and air quality compliance with the NAAQS standards.

The following maps show the locations of the air monitoring sites across the state and in the populated Portland area. As can be seen, the number of monitors in areas where persons who are BIPOC are more likely to live close to permitted facilities are very few. Purchasing, installing and maintaining an air monitoring site is very expensive so DEQ must rely on air quality modeling to determine if the NAAQS are protected. Without modeling or monitoring, DEQ and sources cannot know if the NAAQS are protected.





Comment: DEQ initially sought to justify its proposal by reference to the need to protect Oregonians from violations of the National Ambient Air Quality Standards ("NAAQS"). DEQ's "Statement of Need" for the rulemaking justifies the rule by saying it "[a]llows [DEQ] more opportunities to review air quality modeling of emission increases...."

However, that justification fails to acknowledge that DEQ's own analysis (set forth in an agency-issued memorandum dated March 7, 2022) did not identify any widespread NAAQS compliance problem in Oregon.

Instead, DEQ's analysis concluded that in the vast majority of cases "the results don't indicate there were exceedances of the NAAQS, only that more refined modeling would be required." So, while DEQ's proposed rule will require manufacturers to conduct a lot more, expensive modeling, DEQ does not expect there to be any real issues identified.

Response: The referenced document "EPA Significant Emission Rates (SERs) and Short-Term NAAQS: Are permitted Plant Site Emission Limits (PSELs) in Oregon protective of air quality?" states:

> Summary of modeling results.
>
> The hypothetical sources modeled here were intended to capture a range of facility types including general manufacturing such as a pellet manufacturer, small and large facilities using diesel powered equipment and generators, a large diesel emergency electrical generator as used in a datacenter, and a unit emission rate model. All show impacts greater than the SIL, although for the smaller generators these are relatively close to the hypothetical property line as use in these models.
>
> With exception of the unit emission rate model and the datacenter emergency generator, the results don't indicate there were exceedances of the NAAQS, only that more refined modeling would be required. Given the conservative assumptions in these analyses, all modeling results are biased on the high side. Nevertheless, this modeling demonstrates that sources in Oregon, including smaller sources, that have PSELs based on emissions and emissions increases that are less than the SERs may still have modeled exceedances greater than the SIL and should be evaluated for potential exceedances of the NAAQS.

In this analysis, only five examples were modeled because of data availability constraints:

1. Unit emission rate modeling
2. One data center emergency generator
3. One small facility generator
4. One large facility emergency generator
5. A pellet manufacturer

All of DEQ's permitted sources, even sources that are permitted on General and Basic ACDPs, are more complex than what was modeled in that exercise. Some Title V permittees have over 100 emissions units, which DEQ could not model because of lack of modeling input data. DEQ does not know if a source is contributing to or exceeding a NAAQS without modeling. Unless modeling is done, the source does not know if they are contributing to or exceeding a NAAQS and are therefore vulnerable to citizen lawsuits and enforcement from DEQ and EPA.

As an example, modeling done by Earth Justice, and confirmed by DEQ, showed exceedances at the Owens Brockway facility in Portland. Owens Brockway is located in the Cully neighborhood. Under EPA's environmental justice guidelines, Cully is considered an "overburdened community."[3] More than 50 percent of residents in this area represent communities of color; more than a quarter are low-income; and all face an elevated risk of cancer from air toxics.[4]

The following table summarizes the short-term NAAQS modeling completed to date.

[3] EPA glossary, https://www.epa.gov/environmentaljustice/ej-2020-glossary.http://npirspublic.ceris.purdue.edu/ppis/product.aspx
[4] To view data, visit https://ejscreen.epa.gov/mapper/. Navigate to "Select Location;" "Enter a location or a latitude/longitude;" then enter "97220" and "Get Printable Standard Report." 97220 is the zip code for the Owens-Brockway facility. The process can be repeated for 97218, the Cully zip code

Modeled Source	Outcome	Comment
7 data centers + one to be reviewed.	No one has submitted a short-term NAAQS analysis that showed a NAAQS violation.	Facilities conduct modeling that may translate into self-imposed permit limits to avoid exceedances. These are things such as limiting the hours of operation over a year, limiting the hours during the day they operate, or for data centers, which engines are grouped together for testing and how many can be tested at a given time. These are likely done because they needed these assumptions to pass the modeling, but we never see the scenarios that result in exceedances.
NEXT	Below Significant Impact Levels for all criteria pollutants, including short-term NAAQS so no need to conduct a cumulative NAAQS analysis.	
Owens Brockway	Modeling exceeded NAAQS because of their own emissions, not high background concentrations. Permanently closed one of their furnaces and submitted modeling with only Furnace D showing compliance with the NAAQS.	
Coffin Butte Landfill	DEQ rejected initial modeling showing compliance with the NAAQS because of unrepresentative background value for PM_{10}. If they used the value we recommended, they would have been above the NAAQS. They resubmitted modeling with a new section of the road paved that showed compliance with the NAAQS.	The source voluntarily chose paving a section of the road to meet the NAAQS. DEQ did not require that.

Exceedances modeled at Owens Brockway and Coffin Butte Landfill indicate that other sources could also be contributing to or causing an exceedance of the NAAQS. Both of these sources were required to install a pollution control device to reduce pollution and improve air quality. Until modeling is done, DEQ cannot definitively say whether the NAAQS are being protected, nor can permitted sources. Sources will be required to perform air quality modeling to confirm whether they are or are not causing or contributing to an exceedance of the NAAQS.

Comment: DEQ should only conduct modeling or require modeling or monitoring when there is evidence of the source exceeding or violating an ambient air quality standards. EVRAZ encourages DEQ to develop objective

criteria by which to determine when modeling would be appropriate and would reduce uncertainty in the permitting process. Additionally, if requested by DEQ, facilities should have the ability to determine if modeling or monitoring of the source will be conducted.

Response: Based on recent experience, DEQ believes it is much more appropriate for DEQ to require modeling unless it has information to conclude that modeling is not necessary, rather than to wait until it has some positive evidence of a violation before it requires modeling. The recently modeled exceedances at the Owens Brockway and Coffin Butte Landfill facilities have shown that sources may be exceeding the NAAQs even where there was not specific evidence of exceedances before the modeling was done. DEQ is adding the requirement that owners or operators submitting Type 2 NC applications for new or replaced equipment must also submit an air quality modeling analysis. This requirement was included in the proposed rules for Type 3 NC changes but is now limited to new or replaced equipment. This will ensure that construction projects comply with the National Ambient Air Quality Standards. Modeling for a Type 2 and Type 3 NCs is only for the piece of equipment being installed or replaced, not the whole source, and only for the pollutant that is over the Type 2 or Type 3 NC threshold. Sources that have been called into Cleaner Air Oregon are given the option to perform criteria pollutant modeling at the same time. This approach would be a tremendous cost saving to both sources and DEQ since the modeling parameters would be the same; only the emissions would be different.

Comment: Several times throughout the draft proposal, DEQ indicates that NAAQS modeling will be used to determine if sources are contributing to a monitored NAAQS exceedance. Facilities intentionally model maximum worst-case throughputs. When these conservative assumptions are paired with worst-case weather conditions, modeled NAAQS exceedances do not necessarily correlate to any actual NAAQS monitoring exceedances. These modeled scenarios are theoretical worst-case computer models. The goal of almost all air permit related modeling is to proactively mitigate off-site impacts and engineer better dispersion characteristics for a facility.

Response: All modeling is done with worst case conditions, especially when determining compliance with the one-hour NAAQS, because worst case conditions can occur for one hour. Sources have the option of setting up a meteorological station onsite to capture local meteorological conditions, which would make modeling more accurate. Meteorological monitoring would be required for at least one calendar year to capture seasonal variation. If a source modeled an exceedance of the NAAQS, they have the option of performing ambient monitoring for a year, as allowed by the proposed rules. Multiple monitors would be required in order to measure upwind and downwind concentrations. Because of these requirements and the expense, most sources would choose to perform modeling instead of monitoring.

Comment: The new language throughout the rules stating a source may "contribute to an exceedance" is overly vague and indicates the intent of the rule changes are simply to find violators. If there is a significant wildfire in vicinity of a facility and the NAAQS monitoring shows exceedances, for example, every source in the area including natural sources would be contributing to the NAAQS exceedance. Furthermore, in DEQ's own analysis, (DEQ-issued memorandum dated March 7, 2022) the results did not indicate that there were exceedances of the NAAQS. In practical terms, the proposed rule language will do very little to protect Oregon's air quality, but will require manufacturers to conduct extensive, expensive, and time-consuming air quality modeling. DEQ should not move forward with the proposed rules as they pertain to NAAQS modeling unless and until data exists to justify the need for such regulation.

Response: EPA required DEQ to add the following rule language in OAR 340-202-0050 in the 2015 rulemaking: "No source may cause or contribute to a new violation of an ambient air quality standard or PSD increment even if the single source impact is less than the significant impact level." This language was also added to OAR 340-224-0055. DEQ agrees with the commenter that in some cases, it may be difficult to determine which source caused or contributed to an exceedance of a NAAQS, especially if there are multiple sources located in the area. Speciation methods can be used to determine the contributions of each source. DEQ would not use ambient monitoring data gathered during a wildfire as data that was representative of normal source operation.

Comment: Roseburg also has experience in other jurisdictions with short-term modeling and has found short-term modeling to be extremely troublesome for the most benign of sources. Roseburg strongly recommends exemptions for natural gas boilers and other common minor projects that are essentially best available control technology at conception. Roseburg also recommends exempting emergency generators or other life-saving equipment from this process as extended stacks or control requirements beyond NSPS and NESHAP requirements may jeopardize reliability of equipment designed to protect human life.

Response: Natural gas boilers can emit high levels of NOx without low-NOx burners so natural gas boiler should not be exempt from minor source NSR. DEQ is proposing that the source need only model the emissions unit being constructed or modified. This can easily be done using the simple screening-level air quality model AERSCREEN.

Not all emergency engines subject to New Source Performance Standards or National Emission Standards for Hazardous Air Pollutants are required to reduce emissions. In order to streamline permitting, DEQ is proposing to include emergency engines and fire pump engines less than or equal to 500 kilowatts (670 horsepower) on the Type 1 NC "notice and go" list. Some data centers are volunteering to install diesel particulate filters on their emergency engines. DEQ is not requiring any source to extend their stack heights. The commenter did not give examples of other life-saving equipment so DEQ will not add them to the Type 1 NC list.

Comment: As of April 30, 2022, the US EPA indicates Oregon only has two counties (Lane and Klamath) with attainment issues related to PM_{10} and $PM_{2.5}$. From an efficiency and effectiveness perspective, any rule changes that are meant to target pollutants should focus on pollutants contributing to ongoing criteria pollutant challenges for the State. For example, Roseburg's experience with SO_2 modeling is that it is only a problematic pollutant for certain types of sources. Roseburg recommends DEQ restrict short-term modeling to known major contributors of S02 or allow facilities to request exemption from this requirement to reduce administrative burden on facilities that will never approach modeled S02 thresholds.

Response: As stated earlier, DEQ does not want to wait until an area becomes a nonattainment area before taking action to reduction air pollution. All sources, not just sources that propose construction of an emissions unit that emits SO_2, should model to ensure that the NAAQS are protected. DEQ has only one SO_2 monitor in the state, located in southeast Portland. Once again, in order to know if the 1-hour SO_2 NAAQS is being protected, air quality modeling must be done. Modeling one emissions unit for SO_2 impacts is a simple exercise that can be done using the screening model AERSCREEN.

Comment: In a nutshell, the rule might not redress NAAQS exceedances, but it will certainly raise costs (yet again) for the state's industrial sources and manufacturers. Because those same businesses provide disproportionately more well-paying jobs to people of color across the state-the communities this rule seeks to

protect--we urge DEQ to act cautiously before finalizing its proposed rule. Specifically, we request that, before finalizing the rule, DEQ seek input from other state agencies (including from Oregon's Employment and Department of Administrative Services) to fully evaluate (and then mitigate) the potential economic impacts resulting from the proposed rule.

Response: When developing a Statement of Fiscal and Economic Impact, DEQ uses available information to project any significant effect of the proposed rule. DEQ is not required to conduct original research or hire experts. ORS 183.335(2)(a)(E) states:

> "A statement of fiscal impact identifying state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public. In considering the economic effect of the proposed action on the public, the agency shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected. For an agency specified in ORS 183.530 [Housing cost impact statement required for certain proposed rules], the statement of fiscal impact shall also include a housing cost impact statement as described in ORS 183.534 [Housing cost impact statement described];"

DEQ asked the Rules Advisory Committee to provide input on the Statement of Fiscal and Economic Impact in order to make the cost estimates more accurate. DEQ received input from only one RAC member on the cost of hiring a consultant and performing air quality modeling, which was included in the Statement of Fiscal and Economic Impact. Sources do not report business expenses to Oregon's Employment and Department of Administrative Services so without that information, DEQ cannot provide further mitigation strategies. In almost any proposed rulemaking, including this one, DEQ asks the Rules Advisory Committee to provide detailed cost estimates in order for DEQ to predict fiscal impacts more accurately but, in DEQ's experience, rarely receives many responses that provide this data. In addition, DEQ cannot anticipate what kind of permit modifications or construction approvals may be submitted. Sources do not inform DEQ of their intentions until the application is submitted. Without all of this information, DEQ cannot predict fiscal impacts with any more certainty.

Comment: Further, the proposed rules may not redress NAAQS exceedances, but will raise costs for Oregon manufacturers. Performing multipollutant NAAQS modeling as part of every permit renewal and modification will require substantial resources from regulated sources and DEQ. DEQ is already years behind in renewing many of the standard ACDPs and Title V permits, and this proposal will undoubtedly exacerbate the existing backlog. NAAQS modeling may be appropriate in certain circumstances, but the scant state and source resources should not be consumed with the requirement that every existing source with an air permit must prove a negative each time its permit comes up for renewal. The burden of this requirement is disproportionate to the prospective benefit, making it more difficult for facilities to operate effectively in this state without meaningfully protecting human health and air quality.

NAAQS modeling as part of permit renewals and modifications (OAR 340-216-0040)

The Coalition is concerned about the unfettered discretion that DEQ is proposing it be allowed to determine what sources must conduct modeling to demonstrate NAAQS compliance. As proposed, the Department may require a source to model NAAQS compliance whenever it renews its permit. Under the proposed approach, modeling would only be required when requested by DEQ. See, e.g., OAR 340-216-0040(2)(a)(D) (ACDP renewals) and -0040(3)(d) (ACDP modifications); 340-218-0040(1)(c)(N). We support the proposed approach to the extent that it does not require, as a bright-line rule, all existing sources to model as part of every permit renewal or permit modification. We see the proposed approach as practical, in that it presumably limits modeling to those situations

where DEQ determines, in its discretion, that it is truly needed. However, DEQ has failed to state any criteria in the rules for when it may exercise this discretion. Requesting such unfettered discretion from the EQC goes beyond what is allowed by law and leaves sources subject to agency caprice, with no ability to predict when modeling will or will not be required. DEQ has other areas in the air rules where it has requested discretion from the EQC, but has provided criteria to be applied in exercising this discretion. For example, in deciding the required ACDP type, DEQ has the discretion to shift a source to a different permit level. However, unlike the modeling provisions, multiple criteria governing when and how DEQ's discretion will be exercised to determine a source's ACDP type. See, OAR 340-216-0025(7)(b). DEQ should add to the proposed rules specific and objective criteria applicable to when a source will be required to conduct modeling as part of a permit modification or renewal. At a minimum, it would be appropriate to state that modeling can only be required if (a) there is a reasonable basis to believe that a NAAQS might be exceeded and (b) the source is requesting an increase in emissions. Without such criteria, DEQ is requesting unbridled discretion beyond anything contemplated by the Legislature. Again, while we appreciate that DEQ needs some room for discretion in which to act, all would be served better if the proposed rule includes clear, objective criteria for where modeling is appropriate for DEQ to require.

Response: When determining when modeling will be required, DEQ will take its staff resources into account so that permit renewals and construction approvals are not delayed by this work. DEQ will exercise its reasonable discretion to determine, based on the information available regarding a source's emissions, whether it has sufficient information to conclude with reasonable assurance that the source will not violate the NAAQS. If DEQ cannot reach such a conclusion, then it will require the source to conduct modeling. For some recent permit renewals where DEQ is requiring modeling, DEQ has included a permit condition requiring submittal of the modeling results at a future date, staggered to ensure DEQ staff have time to review. This also gives sources adequate time to do the modeling. If the modeling shows that the NAAQS are protected, DEQ does not anticipate that modeling will be required at every renewal or possibly ever again unless emissions increase. If the modeling shows impacts close to or exceeding the NAAQS, additional modeling may be needed.

Comment: The Coalition is also concerned about the Department's ability to review the tremendous amount of new modeling that will be the result of the proposed rule revisions. As proposed, the number of applications that will require modeling will increase from an average of 1 to 3 per year to dozens per year. This will occur at the same time that DEQ's modeling staff are already overwhelmed, especially by the Cleaner Air Oregon program. This will result in tremendous permitting delays. Type 3 notices currently take 9 to 12 months to complete where the Department only processes, on average, two Type 3 changes per year. With the substantial increase in Type 3 changes resulting from the proposed rule revisions, and the extensive additional requirements applicable to Type 3 changes under the proposed revisions, it is all but certain that the Department will be unable to keep up with demand and Oregon industry will be forced to cancel projects in the state and move production elsewhere. This impact of the rules has not been adequately addressed and DEQ must do so before moving ahead with the proposal. When asked during a RAC meeting what increase in resources would be required as result of the increase in Type 3 changes, DEQ replied that it could not predict the impacts. Such an underinformed approach to permitting program changes is not acceptable to the regulated community or the general public. Absent a comprehensive and impartial analysis of program impacts prior to rule adoption, the regulated community will be pushed to resist any subsequent requests to the Legislature for funds to swell the ranks of DEQ to address the shortfalls resulting from this proposal.

Response: DEQ does not track Type 3 NCs because they are permit modifications. DEQ initially estimated that we receive about approximately two Type 3 NCs each year as Construction ACDPs because Construction ACDPs are always submitted as Type 3 NCs. There are other permit modifications that do not require a Construction

ACDP, but they may qualify as Type 3 NCs so the exact number of Type 3 NCs is unknown. Table 1 shows other types of ACDP modifications that could be Type 3 NCs along with the time it took to issue those modifications (2015 to present).

Table 1: Summary of ACDP modifications that could be Type 3 NCs with # of days to complete.

	Average	Min	Max
Permit Action Type	All Years	All Years	All Years
ACDP Complex Technical Modification (with PSEL increase)	187	20	306
ACDP Complex Technical Modification (without PSEL increase)	186	117	270
ACDP Construction Permit	178	58	882
ACDP Moderate Technical Modification (with PSEL increase)	214	39	992
ACDP Moderate Technical Modification (without PSEL increase)	246	4	3838

Because DEQ is not proposing to change the thresholds for the different types of NCs, there should be no change in the types of NCs that DEQ receives in the future compared to the past. Type 2 NCs will not become Type 3 NCs because the thresholds are not changing.

See the responses to the following comment for additional responses to this comment:

- "Address economic impacts of proposed rules on small businesses;"
- "General opposition to rulemaking, re-evaluate costs and benefits and re-notice rulemaking after addressing comments;"
- "Provide certainty in the form of a clear and streamlined process for modeling;" and
- "Do not allow DEQ unfettered/unchecked discretion to require compliance with ambient air quality standards."

Based on all of this information, DEQ did not change the proposed rules as a result of these comments.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 18, 13, 15, 16, 8, 11, 14, 20, 21

Suggested Change #63: Allow for "next business day" submittals for due dates that fall on the weekend or holiday

Description: Please incorporate a change to all submittals that are due in X number of calendar days to be able to submit the "next business day" if the X date falls on a holiday or a weekend. This change can be made in accordance with the requirements of OAR 340-214-0330(1)(a), and or any codified due date (e.g. 15 days from event). There is an Oregon statute (see below) that states when due dates fall on a "holiday," the submittal is not required until the following business day. [ORS 187.010(3)] Note that by this statute, Sundays are designated holidays as are the following Monday (if holiday is on Sunday) or preceding Friday (if holiday is on Saturday). However, Saturdays are not designated legal holidays. 187.010 Legal holidays; acts deferred to next business day; effect on labor agreements. (1) The following days are legal holidays in this state: (a) Each Sunday. (b) New Year's Day on January 1. (c) Martin Luther King, Jr.'s Birthday on the third Monday in January. (d) Presidents

Day, for the purpose of commemorating Presidents Washington and Lincoln, on the third Monday in February. (e) Memorial Day on the last Monday in May. (f) Independence Day on July 4. (g) Labor Day on the first Monday in September. (h) Veterans Day on November 11. (i) Thanksgiving Day on the fourth Thursday in November. (j) Christmas Day on December 25. (2) Each time a holiday, other than Sunday, listed in subsection (1) of this section falls on Sunday, the succeeding Monday shall be a legal holiday. Each time a holiday listed in subsection (1) of this section falls on Saturday, the preceding Friday shall be a legal holiday. (3) Any act authorized, required or permitted to be performed on a holiday as designated in this section may be performed on the next succeeding business day; and no liability or loss of rights of any kind shall result from such delay. (4) In enumerating legal holidays in subsection (1) of this section, the Legislative Assembly does not intend to limit or otherwise affect public or private collective bargaining or collective bargaining agreements. [Amended by 1955 c.4 §1; 1969 c.455 §1; 1973 c.51 §1; 1975 c.633 §1; 1977 c.135 §1; 1977 c.321 §1; 1985 c.518 §1]

Response:

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 10

Suggested Change #64: General support of Oregon Business & Industry comments

Description: Adopts comments by reference

Response:

Response Type: no agency action required

Comment IDs linked to this Suggested Change: 8, 11, 13, 14, 15, 16, 19

Suggested Change #65: General opposition to Minor New Source Review program

Description: Without any advance discussion before the Rulemaking Advisory Committee, DEQ is proposing to require many existing sources to comply with a brand-new control technology program (called Minor Source Emission Reduction Technology or MSERT). That program has no precedent in Oregon, was not authorized by the legislature, and could suddenly cause existing sources to be operating with technologies that do not comply. Existing sources have already made substantial investments to comply with Oregon's air quality program. DEQ should honor those investments and drop the proposed MSERT program.

DEQ’s proposed rule will transform the majority of projects completed by sources requiring notice to DEQ (i.e., Type 1 and 2 actions) into substantive (Type 3) actions, requiring significant pre-construction analyses and permitting. At present, even though DEQ handles only a few Type 3 permitting actions each year, each one takes typically takes 9-12 months for DEQ to process. DEQ has not explained how it can possibly process the dozens of Type 3 actions that will result from its proposed rule. This change to the permitting process causes us significant concern, since it will impact the timeline in which our members will be able to complete projects for their clients and customers. The significant delays that we anticipate will significantly slow construction on these types of

facilities, resulting in a slowdown to construction in Oregon, and a decrease in ability for our members to deliver the required projects to their customers in a timely manner. Because of these issues, DEQ should retain the existing notice of construction structure.

DEQ's proposed Minor New Source Review program does not use the term "potential to emit" from the Clean Air Act but creates a new term "uncontrolled po-tential to emit". Under the Clean Air Act, air permitting is based on the source's po-tential to emit. EPA and the D.C. Circuit Court have clarified that potential to emit re-fers to the highest amount of pollutants that could be released into the atmosphere considering the design of the equipment, controls, and operating limitations.

Roseburg is concerned with the significant increase in permitting actions that will require modeling. The DEQ's Rule Revision Proposal states that Significant Emission Rates (SER) "may not be protective of the environment" because the DEQ assumes the SER are long term standards. This has led the DEQ to propose lower SER for minor projects. The original new source review SER for PM and SO_2 were actually set according to the EPA's 2007 proposed $PM_{2.5}$ rulemaking using a short-term methodology "the significant emissions rates for PSD applicability purposes... resulted in ambient impacts less than 4 percent of the 24-hour standards for PM and SO^2 were sufficiently small so as to be considered de minimis". The DEQ also asserts in its draft document that SER were established before 1-hour standards were set. However, there are only 1-hourNAAQS for NO_2 and SO_2. And the EPA's $PM_{2.5}$ rulemaking established a new SER for $PM_{2.5}$ and reasserted 40 tons per year was an acceptable SER for NO_x, SO_x, and VOC as precursors for $PM_{2.5}$, which has a 24-hour NAAQS standard.

The SER are meant to create a threshold to justify the expense and burden of ambient air modeling. Roseburg's experience with Oregon and other States' modeling requirements are that ambient air modeling should be reserved for significant projects that have the lead time, capital, and resources to conduct ambient air quality analysis and subsequent control device installations or stack modifications, if needed.

Modeling is a resource-demanding exercise and excessive use of air modeling for modifications of minor projects will discourage investment in Oregon, including projects that include installing pollution control equipment, which has cascading effects on the communities where industries provide stable employment. The resources and review time of modeling minor projects would create a permitting backlog at Oregon DEQ that will delay major capital projects. Roseburg strongly recommends Oregon DEQ adopt a program that focuses on technology review for minor projects to avoid creating an overly burdensome criteria pollutant modeling program.

DEQ is proposing two options for its new “Minor source significant emission rate” which will dictate whether a NIC is a Type 2 or Type 3 change and trigger DEQ’s new “Minor New Source Review.” Neither option proposed by DEQ is warranted or appropriate. DEQ has set the category criteria levels too low ensuring that many current Type 2 changes will be treated as Type 3 changes. This may actually create a disincentive for many smaller sources to make any changes and continue to operate older, less efficient equipment. As most of these facilities have little actual emissions, the proposed changes seem unnecessary and wasteful of resources. While no changes to the NIC provisions are warranted, if DEQ is going to create a new “Minor New Source Review” criteria, the levels should be set no lower than 75% of the existing SERs.

The Minor New Source Review proposal is inconsistent with DEQ’s statutory authority (OAR 340-224-0300)

The Coalition is concerned that DEQ is overstepping its regulatory authority in proposing a new and unprecedented new source review program triggered if a source proposes a Type 3 change whose uncontrolled potential to emit exceeds the minor source SER. As proposed in OAR 340-224-0300, replacement of an old and decrepit oil-fired boiler with a new and lower emitting 29 MMBtu/hr natural gas-fired boiler would be subject to this new minor new source review program. In order to implement this emissions reduction project, the source would have to comply with a wholly new case-by-case control technology review referred to as Minor Source

Emission Reduction Technology ("MSERT") and undergo an air quality analysis. This is a dramatic expansion as compared to what has been required of sources in Oregon for decades. The fees and delays will make emission reduction projects such as the hypothetical boiler replacement infeasible from a cost and timing perspective, doing harm to the environment.

The Coalition also believes that the proposed MSERT control technology program violates state law. ORS 468A establishes the authority of DEQ to regulate stationary sources. DEQ cannot exceed the authority granted to the agency by the Legislature. In 1993, the Legislature granted the Department authority to require Typically Available Control Technology ("TACT") of new and existing sources. The situations where TACT could be required and the specific limitations on the program are enumerated in ORS 468A.025. Now, without any advance discussion in the RAC meetings or, more importantly, new authorizing legislation, DEQ is proposing the MSERT program for new and existing sources. In doing so, DEQ is sidestepping the constraints imposed by statute to establish an entirely new and different program that will render the statutorily established TACT program essentially irrelevant. If, after 29 years of the TACT program's implementation, the Legislature thought that DEQ should change and significantly expand the nature of controls imposed on new and existing sources (in particular, minor sources), the Legislature would make its desires known, and DEQ could act accordingly. The Legislature, however, has not acted to authorize DEQ in this regard. The proposed rules' end run around the TACT program and the constraints placed in statute subverts the Legislature's clear intent. Put plainly, the proposed MSERT program amounts to an unlawful attempt by DEQ to fundamentally revise the TACT statute in excess of DEQ's authority as an Oregon administrative agency. As such, the MSERT program elements must be dropped from the rule proposal.

From an MSERT perspective, it is unlikely that controlling emissions from a single emission unit of 5 tpy for NO_x and/or SO_2 would be economically feasible. The typical capital cost for emission controls is on the order of hundreds of thousands of dollars. While add on controls for PM_{10} and $PM_{2.5}$ are typically less expensive, these would still be unlikely to be economically feasible. The MSERT requirement appears to add additional requirements without additional environmental or health benefits. Currently, Oregon rules require facilities to have the Highest and Best Practicable Treatment and Control under OAR 340-226-0100 through 0140. Notably, OAR 340-226-0130 is the requirement for TACT. While the current rules and draft rules use several acronyms, in essence, TACT, best available control technology (BACT), and MSERT reduce to a common control technology evaluation and anticipated conclusion. There are nuances to each of these terms, but in practice the evaluation is primarily to review the emission unit on a pollutant-by-pollutant basis and determine if lower emissions are technically, economically, and/or commonly feasible for the technology and physical space. Generally, this is accomplished by reviewing databases and manufacturer discussions to ascertain if other similar processes are currently using any of the technologies. If the answer is yes, economics are evaluated to determine if a change is warranted. It seems the MSERT requirement is already established in other air quality requirements and does not provide any change to current practices.

What is the agency's expected change with the addition of this requirement?

If this MSERT requirement remains, it would be helpful to see presumptive MSERT for emission units that are typically permitted. Development of a presumptive MSERT for emergency generators specifically would provide definitive guidelines for permittees to reference. Defaulting to federal engine requirements, such as New Source Performance Standard (NSPS) Subpart IIII and/or JJJJ limits, is most typically accepted in other states for these types of units.

Response: DEQ decided to propose the Minor New Source Review program in a future rulemaking. EPA is currently reviewing existing Minor New Source Review programs across the country to identify best practices to

strengthen the effectiveness of state Minor New Source Review programs. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements.

The future rulemaking also provides DEQ time to address staffing shortages and training needs for new staff. DEQ is committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions in communities that are underserved and overburdened with a disproportionate impact from air pollution.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 18, 13, 15, 16, 7, 11, 12, 14, 20, 21

Suggested Change #66: Do not require approval for voluntary pollution controls, like HVAC systems

Description: DEQ's proposed rule would, for the first time ever, require pre-construction approval for air pollution controls like HVAC systems that are voluntarily used by Oregon businesses but are not needed to comply with any applicable air emission limits. Upgrading HVAC systems benefits worker health by reducing exposures to allergens and COVID-19 and other virus-causing particles, improving overall indoor air quality. Given the substantive cost and delay associated with DEQ's pre-construction approval process, the result of DEQ's proposal will be to discourage Oregon businesses from undertaking air pollution control projects.

The Coalition is concerned that the Department is proposing to change OAR 340-210-0215(1)(b)(C) to require NOCs for air pollution control devices not relied upon to comply with emission limits. We appreciate the addition of a definition of "air pollution control device" in response to comments made in the RAC process. However, regulated sources use a broad variety of air pollution control devices that are not relevant to air permit compliance or compliance with any standards. For example, HVAC systems include filters that remove air contaminants such as pollen and other atmospheric particulates. Also, some sources use oxidizers on certain processes to minimize odor, but such devices are not required or accounted for in the source's permit or emissions inventories. These HVAC system filters and oxidizers are not "inherent process equipment" but are clearly removing pollutants. Thus, they would be subject to NOC requirements under the proposal. However, it serves no benefit for DEQ to require NOCs for such equipment and it deters sources from employing "off-permit" improvements. Evaluating such NOCs will also overburden already over-stretched DEQ staff without a corresponding environmental benefit.

DEQ will exceed its authority if it proceeds, as proposed, to remove the language limiting the NOC program to devices used to comply with air permit emission limits and standards for regulated air pollutants. If an air pollution control device is not related to compliance with air permit emission limits or standards, DEQ lacks basis or authority to add regulatory requirements. Where a facility is not using an air pollution control device to comply with air permit emission limits or standards, the facility should not have to file a NOC before constructing or modifying such a device.

Response: DEQ is not requiring pre-construction approval for air pollution controls like HVAC systems that are voluntarily used by Oregon businesses but are not needed to comply with any applicable air emission limits. HVAC equipment is covered under the definition of "categorically insignificant activity:"

> (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.
>
> …
>
> (o) Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;

The NC rules already cover pollution control equipment that is not required to comply with any applicable requirement:

> 340-210-0215 Notice of Construction and Approval of Plans: Requirement
>
> …
>
> (3) Air Pollution Control Devices. No person is allowed to construct or modify any air pollution control device without first notifying DEQ in writing.
>
> The NC rules are inconsistent because they also state this:
>
> 340-210-0205 Notice of Construction and Approval of Plans: Applicability
>
> (1) Except as provided in section (2), OAR 340-210-0200 through 340-210-0250 apply to the following:
>
> …
>
> (c) All sources that use air pollution control devices to comply with emissions limits, or to avoid the requirement to obtain an Oregon Title V Operating Permit (OAR chapter 340, division 218) or Major NSR or Type A State NSR (OAR chapter 340, division 224) requirements, or MACT standards (OAR chapter 340, division 244).

Since OAR 340-210-0215(3) is more encompassing than OAR 340-210-0205, subsection (c) of OAR 340-210-0205 has been struck from the proposed rules. Under the proposed rules, most pollution control devices can still be approved under a Type 1 or Type 2 NC. Under the proposed rules, most HVAC equipment will remain Categorically Insignificant, not subject to a federal NSPS or NESHAP regulation, and not require an NC.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 11, 13, 14, 20, 21

Suggested Change #67: Do not allow DEQ unfettered/unchecked discretion to require compliance with ambient air quality standards

Description: Under the proposal, DEQ seeks to give itself unfettered/unchecked authority to require a business to do whatever DEQ determines may be needed (including forcing the business to accept any physical or operational limit that DEQ chooses) whenever DEQ decides (without objective criteria) that a source might cause or contribute to an air quality standard exceedance. Such unchecked regulatory authority will chill investment by Oregon's businesses, who will lack the ability to clearly identify DEQ's regulatory requirements.

In each of these sections, DEQ is proposing a new provision regarding additional permit conditions that DEQ may include in its sole discretion. Presumably, this is to address sources that could have exceedances of the short-term NAAQS. As discussed during the Rulemaking Advisory Committee meetings, modeling a potential exceedance of the short-term NAAQS and an actual exceedance of the short-term NAAQS are not the same. A source with a modeled exceedance should have the ability to demonstrate through monitoring that there are no actual exceedances of the short-term NAAQS before additional permit conditions are imposed. A source should also have the ability to propose permit conditions in situations where the modeling shows an exceedance of the short-term NAAQS and the source declines to conduct monitoring. DEQ should clarify that these provisions apply to actual (not modeled) exceedances of an ambient air quality standard.

Limits to ensure NAAQS compliance (OAR 340-216; 340-218)

The Coalition is concerned about the proposed language in OAR 340-216-0064(3)(c), -216-066(3)(c) and -218-0050(1)(b) suggesting that DEQ can unilaterally impose "any physical or operational limit" on a source that conducted modeling or, indeed, whenever DEQ determines that such conditions are required. This concern was heightened at the April 15, 2022 RAC meeting where DEQ suggested adding language requiring limits if a source's modeling indicated that the combination of the source's impacts and background were 75 percent or more of the NAAQS. Such a suggestion is unsupported by statute, rule or common sense for multiple reasons.

First, we want to be clear that we recognize that it is the foundation of air permitting that a source cannot cause or contribute to a NAAQS exceedance. For decades DEQ has implemented this doctrine by requiring sources to propose and accept such limits as are necessary to avoid an exceedance. However, what DEQ proposed at the RAC meeting goes far beyond historical precedent by authorizing DEQ to impose limits if a source's impacts, plus background, equal 75 percent of the NAAQS. While the 75 percent criterion is not in the rules, it underscores the need for clear criteria in rules for when and how any type of limit will be imposed to protect NAAQS.

There is no basis for the Department to impose source specific limits where the combination of background plus the source's modeled impacts (already a very conservative way of evaluating NAAQS compliance) results in worst case impacts of only 76 percent of the NAAQS. The problem with this approach becomes immediately apparent with $PM_{2.5}$ where the background value in the Portland area is, by itself, roughly 75 percent of the NAAQS. Again, we recognize that conditions must be accepted to prevent an exceedance, but there is no basis to impose conditions where this conservative analysis demonstrates not only that there is no exceedance, but that worst case impacts (which almost certainly will never occur) are only 76 percent of the standard.

Second, although a modeled NAAQS exceedance can be important information for use to assess whether a NAAQS violation might occur, modeling does not itself demonstrate that a source's emissions actually do or would cause or contribute to a NAAQS exceedance.

Third, even in those situations where a modeled NAAQS driven limit is appropriate, it is the source, not DEQ, that should propose any limit and that limit should impose the least restriction possible while ensuring protection of the NAAQS. Obviously, any limit must be acceptable to the Department, but it should be the source, not the agency, that proposes how a source would limit its ambient impacts. We believe that may have been the intent of the Department, but the proposed rules are not clear in this regard and so we suggest the following revisions to the proposed language to clarify this point:

For sources where modeling or monitoring demonstrates that permit conditions are necessary to ensure the source's emissions will not cause or contribute to an exceedance or violation of an ambient air quality standard adopted under OAR chapter 340, division 202, at the request of the owner or operator, DEQ may include any

physical or operational limitation, including use of control devices, restrictions on hours of operation or on the type or amount of material combusted, stored, or processed as permit conditions to limit short term potential to emit; and….

Finally, we encourage the Department to clearly state in adopting the final rules that the intent of the proposed revisions is not to reduce source flexibility. Any other approach would be contrary to the rule policy adopted by the EQC. Specifically, the EQC has declared the policy of the rules as follows:

However, except as needed to protect ambient air quality standards, PSD increments and visibility, the EQC does not intend to: limit the use of existing production capacity of any air quality permittee; cause any undue hardship or expense to any permittee who wishes to use existing unused productive capacity; or create inequity within any class of permittees subject to specific industrial standards that are based on emissions related to production. OAR 340-222-0010.

DEQ cannot remain consistent with this long-established, binding EQC policy if it leaves any suggestion that limits will be imposed under the proposed revisions that go beyond what is actually required to protect ambient air quality standards.

Response: No source has submitted a short-term NAAQS analysis that showed a NAAQS violation, except by mistake. Based on DEQ's experience, facilities conduct modeling that can translate into self-imposed permit limits to avoid exceedances. These are things such as limiting the hours of operation over a year, limiting the hours during the day they operate, or for data centers, which engines are grouped together for testing and how many can be tested at a given time. These restrictions are likely done because the source needed these assumptions to comply with the NAAQS and pass the modeling. DEQ typically does not see the preliminary scenarios that result in modeled exceedances, only the 'final' scenario that the sources submit to demonstrate they will not cause an exceedance.

It is the permittee’s obligation to propose limits to be incorporated in the permit that will assure compliance with all applicable requirements including protection of NAAQS. NAAQS-limiting conditions could be including limits on production, hours of operation, or installing pollution control equipment. If the permittee does not "request" that DEQ includes limits to protect the NAAQS, then DEQ will select limits to incorporate into the draft permit. DEQ does not intend to impose limits that go beyond what is actually required to protect the NAAQS and did not include proposed rules stating so. DEQ is not proposing revisions to the policy of the Plant Site Emission Limit rules in OAR chapter 340, division 222.

Specific permit requirements could be dependent on the complexity of the source, how close modeled values are to the NAAQS, types of emissions units, locations of emissions units, and other requirements that may apply to emissions units. Examples of permit conditions may include but are not limited to:

- Short-term emission limits (e.g., grain loading);
- Short-term production limits;
- Emission action levels for specific emissiosn units and/or the facility;
- Use of a Continuous Emission Monitoring System and performance testing to ensure that actual hourly emission rates are below the modeled emission rates; and/or
- Operational/monitoring requirements to ensure emissions units and pollution control devices are properly operated and maintained.

DEQ has added an option for a source with a modeled exceedance to demonstrate through monitoring that there are no actual exceedances of the short-term NAAQS before additional permit conditions are imposed.

Meteorological monitoring would also be required in order to determine which direction the wind is blowing the source's emissions.

Under proposed OAR 340-226-0140, DEQ may conduct monitoring or modeling or may require a source to conduct monitoring or modeling to determine whether the source's emissions will cause or contribute to an exceedance or a violation of an ambient air quality standard.

DEQ staff spoke with Dave Bray, Special Assistant to the Director of EPA Region 10, who was at EPA in 1981 when the Environmental Quality Commission adopted this rule, about the intent of OAR 340-222-0010. Mr. Bray stated that the EQC established the permitting program so that sources could access their unused capacity by applying for a permit modification for emissions increases. It was not the intention of the EQC to give sources unfettered access to their unused capacity.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 11, 13, 14, 16, 20, 21

Suggested Change #68: Do not eliminate 15 day completeness review or a source's ability to request a contested hearing

Description: DEQ justifies its proposed rule changes as a means to ensure that DEQ reviews construction proposals before a company proceeds with projects. However, DEQ seeks to remove the requirement mandating that DEQ must review air permit applications within 15 days of receipt--one of the few provisions in the rules that forces DEQ to act expeditiously.

Similarly, for decades, DEQ's rules have protected permitted sources from DEQ unilaterally modifying a source's air permit. The rules do this by allowing the source the right to stay any DEQ modification until the source's objections are heard in a contested case hearing. DEQ proposes to eliminate the source's right to an automatic stay pending a contested hearing, thereby depriving a source of an important protection.

Mandatory 15 day review of NOCs for completeness (OAR 340-216-0040(10)(a))

The Coalition is concerned that, in the name of streamlining, DEQ is proposing to eliminate its accountability to regulated industry and the public. In its revisions to OAR 340-216-0040(10)(a), DEQ is proposing to delete the requirement for agency staff to promptly review air permit applications for completeness within 15 days of receipt. The requirement for timely DEQ action is important to the program and proposing its removal contradicts DEQ's assertions of wanting to make the program more accountable, transparent, and robust. We request that DEQ eliminate this proposed revision and keep a clear timeline in the rules for review of applications for completeness.

Department initiated modifications (OAR 340-216-0084)

The Coalition is greatly concerned that the proposed changes to the procedures for Department initiated permit modifications violate state statute and significantly decrease the protection afforded permit holders. Moreover, DEQ did not mention or seek any input on the proposed changes to this procedure during the RAC process. The proposed changes will gut the important protections that have been present in the rules since the Oregon air permitting program was first adopted and that are mandated by state statute.

The proposed changes appear to ignore the critical difference between a source-requested permit modification and a Department-initiated permit modification. Where the source requests a permit modification, it is appropriate that the process proceed consistent with the normal permitting procedures in Division 216. However, this is not appropriate in the unusual situation where the Department unilaterally proposes to change a source's permit. The highly unusual circumstance in which the Department initiates a modification of a source's permit is governed by statutory protections for the permittee. Specifically, ORS 468.070(5) specifies that:

The procedure for modification, suspension, revocation, or refusal to issue or renew shall be the procedure for a contested case as provided in ORS chapter 183.

The statutory procedures and protections are carried forward in OAR 340-216-0084—a regulatory provision that has existed in substantially the same form since 1972. Yet now, without the benefit of any discussion with the RAC, DEQ is proposing to eliminate the statutory protection afforded a source subject to a Department-initiated modification and instead proposes to move the process to the standard notice and comment procedures used for source-initiated modifications. Even more importantly, it removes the source's right to an automatic stay pending outcome of the hearing. In other words, the Department's proposed revisions to OAR 340-216-0084 will strip permit holders of important protections. Such a change is contrary to statute and good policy providing for due process. We request that the proposed changes to OAR 340-216-0084 be eliminated from the final rule package.

Response: Contested case provisions are included in OAR chapter 340, division 11 (specifically OAR 340-011-0500 through OAR 340-011-0585) in their entirety and do not need to be repeated in OAR chapter 340, division 216. Contested cases have been, and remain, available for any issued permit under the Administrative Procedures Act, not just Department initiated permit modifications under OAR 340-216-0084. Nothing in the proposed rulemaking affects the process for contested case hearings, yet DEQ will propose changes to clarify the rules.

The requirement to perform a 15-day completeness review is for ACDP applications in OAR 340-216-0040(10)(a), not for Notice of Intent to Construct applications. In OAR 340-216-0040 Application Requirements, DEQ proposed removing the requirement that DEQ preliminarily review the application to determine the adequacy of the information submitted for ACDP modifications within 15 days after receiving the application. DEQ will continue to prioritize application reviews as resources allow. The 15-day requirement imposed by DEQ on DEQ is not based on resource availability, and has been shown to be unrealistic. DEQ always encourages permittees to consult with their permit writer before submitting their application to ensure adequacy and completeness.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 11, 13, 14, 20, 21

Suggested Change #69: Retain Generic PSELs

Description: Chief among these concerns is DEQ's decision to eliminate Generic PSELs. This constitutes a seismic shift in the philosophy of Oregon's air quality program that eliminates flexibility without, in our opinion, conferring any significant environmental benefit. We implore DEQ to reconsider its decision to eliminate a concept that has worked well for over 20 years. There are less severe ways to protect NAAQS, such as allowing Generic PSELs unless modeling or monitoring raises a concern that a facility is imperiling NAAQS compliance, or limiting application of Generic PSELs to facilities with emissions below a certain percent threshold of a

particular NAAQS. Going this route would consume far fewer agency resources while maintaining a program that provides common-sense flexibility for facilities making changes that will result in minimal PSEL increases.

DEQ should reconsider the wholesale elimination of the Generic PSELs. Generic PSELs are a win for all for the following reasons:

- Due to their conservative nature, Generic PSELs allow DEQ to ensure and clearly communicate to the public that a facility is not emitting pollutants above the Significant Emission Rates "(SERs").
- Generic PSELs strike an appropriate balance by establishing levels below the SERs that can be readily and cost-effectively implemented. Eliminating the Generic PSELs will impose significant costs and resource burdens on both DEQ and sources without any significant environmental benefits.
- We disagree with DEQ's assertion that Generic PSELs discourage reductions of those pollutants. Qualifying for Generic PSEL status is a powerful incentive to discourage those facilities from increasing those pollutants as permitting an increase is difficult.
- We also disagree that eliminating the Generic PSELs address environmental justice concerns. There is no clear nexus between the two. Eliminating the Generic PSELs will not automatically result in less emissions.
- Attempting to substitute Generic PSELs with a calculated capacity to emit or a potential to emit ("PTE") will result in increased cost and permit complexity for DEQ staff and the source. For existing sources, eliminating the Generic PSELs will require an extensive amount of work by DEQ staff and sources as all emission inventories and permits will need major overhauls. DEQ's assumption that eliminating the Generic PSELs will result in less emissions is unsupported. A source's actual emissions are not going to change because a "paper" limit has been removed from its Air Contaminant Discharge Permit ("ACDP"). Further, eliminating the General PSELs could actually result in greater emissions for those sources that accepted Simple ACDPs with the Generic PSELs.

DEQ's proposed elimination of the Generic PSELs provides no immediate environmental benefit and instead will result in a very substantial, costly, and time-consuming endeavor. At a minimum, DEQ should consider maintaining the Generic PSELs for General and Simple permits and sources that have emission units comprised predominantly of emergency generating equipment (i.e., data centers). Many of the recent ACDPs for data centers have set the PSELs at the Generic PSELs and have accepted limits on fuel or hours of operation to avoid exceeding a Title V threshold for emergency and non-emergency operations. While those facilities can calculate non-emergency PTEs based on 100 hours of operation per engine, using this overall cap method to maintain PTEs at the Generic PSELs is a reduction in PTE for most large data centers. DEQ should reconsider and maintain the General PSELs where appropriate.

Proposed elimination of Generic PSELs (OAR 340-222-0040)

The Coalition is concerned that the Department proposes to eliminate Generic PSELs without demonstrating that this significant change will create the targeted benefit with the least disruption to the existing permitting program. DEQ has stated that the complete elimination of the Generic PSEL program is required as a means to ensure short term NAAQS are protected. However, the proposal ignores the fact that the Generic PSEL was added to the rules in 2001 at the request of DEQ staff to avoid the enormous and unproductive process of incrementally making small PSEL changes devoid of any environmental impact. The proposal seeks to set the air program back 21 years and return DEQ staff to spending the majority of their time processing PSEL increases that have no environmental significance.

The proposed rule language goes far beyond what is necessary to achieve the stated goal of NAAQS protection. No Coalition member believes that it is appropriate to violate a NAAQS. We understand the Department's

concern that if a source appears at risk of exceeding a short term NAAQS, automatically granting them a Generic PSEL could result in an issue. However as demonstrated in the Department's own study, the number of sources in this position is a small percentage of the overall number of sources that hold PSELs. In addition, the short term NAAQS concern only relates to three of the criteria pollutants, not all of them. Converting all of the Generic PSELs to source-specific PSELs will consume substantial Department resources. Addressing the permit changes required for minimal increases in PSELs (the issue that the Department previously addressed by creating Generic PSELs) will similarly consume substantial Department resources on a going forward basis. Therefore, the proposed solution is far more costly (of source and Departmental resources) than what is needed to address the perceived problem. The end result will be an exacerbation of DEQ's failure to meet timeliness goals, needless impacts on Oregon's ability to compete and a decrease in the Department's ability to recognize and address real problems.

The Coalition recommends that the Generic PSELs be maintained except where it is demonstrated through modeling or monitoring that there is a concern with a facility threatening NAAQS compliance. Consistent with discussion at the April 15, 2022 RAC meeting, we could see the Department limiting Generic PSELs to sources whose modeled emissions do not exceed a certain percentage (e.g., 75 percent) of the NAAQS. Where a source's ambient impacts, when added to background, are approaching the NAAQS, establishing source specific PSELs at less than the SER may be reasonable and appropriate. Outside of those circumstances, it is not.

Response: In an effort to streamline air quality permitting, DEQ established the concept of Generic PSELs in the 1998 Streamlined Permit Process Improvement Team Findings and Recommendations, and the Environmental Quality Commission adopted them in the 2001 rulemaking to replace source specific PSELs for some facilities. The changes were intended to result in:

- Less time to calculate PSELs
- Less time to write permits
- Fewer permit modifications
- Less public notice for PSEL changes
- Less time spent with applicant

The generic PSELs were set just below the significant emission rate because under DEQ's current rules, a source can request an increase UP TO the SER without having to do an air quality analysis or a control technology analysis. Only a permit modification with a public notice would be needed to increase the PSEL.

Before there were generic PSELs, some sources would come in at the end of the year when they realized they needed a few more tons of emissions because they were going to exceed their PSEL. Without any rule requirements for small increases in emissions, DEQ would approve those increases. It was basically a paperwork exercise that included public notice. The public would ask why there was an opportunity to comment when there were no procedural requirements and no real avenue to deny the change. It was probably an exercise in frustration for the public and for sources too. Adoption of Generic PSELs occurred before there were 1-hour NAAQS.

Assigning Generic PSELs allows some sources to be permitted at emission levels that they cannot physically emit. Permitting sources at capacity or potential to emit:

- Creates permits that more accurately reflect actual emissions;
- Provides for regulatory certainty;
- Avoids over-allocation of air resources and may incentivize sources to reduce emissions;
- Provides greater protection and transparency for communities. This concept of Generic PSELs has been incredibly hard to explain to the public; and

- Allows more opportunities to review air quality modeling of emission increases to ensure compliance with short-term National Ambient Air Quality Standards for some permit modifications.

By permitting a source at its capacity or potential to emit, where its emissions at those operating rates are less than the Generic PSEL, the source has the flexibility it needs and should not need to be given more emissions than it can physically emit. Permitting at capacity is also in alignment with how Cleaner Air Oregon permits smaller sources. In order to emit more than its capacity, the source would have to do a physical modification. A permit modification is required for any physical modification to increase capacity, at which time DEQ would increase the PSEL, if requested by the source. This will also allow the applicant and DEQ to ensure compliance with New Source Performance Standards, if applicable, as well as any minor source control technology requirements adopted by EQC. The review may also assess impacts on National Ambient Air Quality Standards.

DEQ does not have readily available data on potential to emit or capacity to emit for sources that have Generic PSELs. The following summarizes 2020 actual emissions from the 89 out of a total of 100 Title V sources that have at least one Generic level PSEL for comparison purposes. Of the 268 Generic PSELs:

- 120 actual emissions are less than 10% of the Generic PSEL.
- 243 actual emissions less than 50% of the Generic PSEL.
- 25 actual emissions are between 51% and 99% of the Generic PSEL.

The following summarizes 2017 actual emissions from sources that are on Simple or Standard permits that have Generic PSELs for comparison purposes. Of the 170 Generic PSELs:

- 108 actual emissions are less than 10% of the Generic PSEL.
- 161 actual emissions are less than 50% of the Generic PSEL.
- 9 actual emissions are between 51% and 81% of the Generic PSEL.
- No actual emissions are greater than 81% of the Generic PSEL.

In addition to permitting sources at emission levels that they cannot physically emit, DEQ rules provide that DEQ will establish permit requirements "to prevent violation of an ambient air quality standard caused or projected to be caused substantially by emissions from the source as determined by modeling, monitoring, or a combination thereof." In 2010, after the establishment of Generic PSELs, EPA established 1-hour NAAQS for both NO_2 and SO_2 for the first time. In 2006, EPA lowered the primary and secondary 24-hour $PM_{2.5}$ standards. Significant Emission Rates were established in 1980, before 1-hour NAAQS were set. Significant Emission Rates, which are the basis of Generic PSELs, are based on long-term (annual) emissions which do not take into account the variability of operations on a short-term basis. Because of this, Significant Emission Rates and Generic PSELs may not be protective of the short-term NAAQS in many cases. If air quality modeling shows an exceedance of the NAAQS, emission reductions will be required. Any emission reduction will improve air quality for all Oregonians, including BIPOC communities.

Calculations must be done for all activities at a source, excluding categorically insignificant activities, to ensure that the source emits at levels less than the Generic PSELs. No extra work will be required to calculate source specific PSELs. Some additional work is likely necessary to explain to sources on Simple ACDPs the difference between capacity and potential to emit. Source specific PSELs can still be used as synthetic minor limits to avoid being a major source. Based on the data above showing that actual emissions are a fraction of Generic PSELs, sources do not need an incentive to qualify for the Generic PSELs. These sources can choose to be permitted at their capacity to emit, minimizing the need to request an increase in emissions. If that capacity to emit is greater than the Significant Emission Rate, the source will be required to obtain a Standard ACDP. The cost difference between a Standard ACDP and a Simple ACDP will be the incentive to maintain a Simple ACDP.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 16, 20, 21

Suggested Change #70: General opposition to rulemaking, re-evaluate costs and benefits and re-notice rulemaking after addressing comments

Description: We cannot support the proposed changes that will increase regulatory burdens without any evident environmental or public health benefit. These rule revisions, as presented, will require more permit modifications, increase permit engineer workload, and reduce permitting efficiencies than the current process without any evident environmental or public health benefit. We are concerned that, due to the extreme pace of this rulemaking, DEQ has not yet carefully considered the costs and benefits of the various changes being proposed. We request that DEQ re-notice the proposed rule after considering these comments, and those of the larger coalition.

Oregon's Air Permitting Rules were reviewed and updated in 2000 and again in 2015. Each review and update improved on the existing program. In fact, DEQ concluded during its 2015 overhaul of Oregon's air permitting regulations that Oregon maintains a successful, established, demonstrated and mature program that has contributed to the ability to obtain and maintain National Ambient Air Quality Standards. Also, DEQ stated in its 2015 update, DEQ's air quality program has been very successful in protecting air quality in the state. So, I ask DEQ now, what has changed in the last 7 years to make DEQ change their mind and propose these significant changes to the notice of intent to construct rules? Where is the evidence that Oregon's air regulatory program is failing to protect air quality in the state? And, what is the justification to these proposed changes to the fundamentals of the state's long standing air permitting regulations?

As proposed, the rule will impose significant new regulatory burdens on Oregon businesses, driving up the cost and time to obtain permits and approvals from DEQ. DEQ's proposed rule will leave Oregon businesses and workers at a competitive disadvantage as compared to sources operating in other states. But DEQ has not provided any substantive analysis of any air pollution problem solved by the proposal. In fact, DEQ's own analysis has shown that regulated industrial sources represent only a small fraction of the air pollution in Oregon, and that mobile and nonroad sources have a much greater impact on our air quality.

We respectfully request that the DEQ take additional time to allow for a rulemaking process that provides opportunity for DEQ to: i) work with impacted stakeholders to better understand and define the perceived air quality issues that initiated this rulemaking, and ii) to respond to those issues by fashioning cost-effective rules that protect the most vulnerable Oregonians while enabling responsible Oregon businesses to thrive.

Do not move forward with the proposed rules in their current form, given the concerns from business associations.

Response: The goals of the proposed rulemaking, clearly stated in the first and subsequent RAC meetings, are to:

- Improve and strengthen our permitting program;
- Enhance community protection, and incorporate Environmental Justice;
- Increase permitting issuance efficiency; and
- Increase regulatory certainty.

DEQ stated that at the first Rules Advisory Committee meeting on December 21, 2021, that the Notice of Intent to construct rules have been very resource intensive. In addition to clarifying those rules, we want to begin to

address environmental justice concerns and impacts. We also want to clarify rules to ensure statewide consistency.

At the second and third Rules Advisory Committee meetings on January 24, 2022 and February 24, 2022 respectively, DEQ talked about the short-term National Ambient Air Quality Standards and how they have decreased over time, including adoption of the 1-hour NAAQS for NO_2 and SO_2. An environmental advocacy group in the Cully neighborhood modeled exceedances of the NAAQS because of concerns over Owens-Brockway. Owens-Brockway is an example of a source exceeding the short-term NAAQS under our old practice of issuing permits based on annual NAAQS. In addition, DEQ has modeled exceedances of NO_2 and SO_2 1-hour NAAQS from a hypothetical source that is not subject to New Source Review.

Because of these recent issues, DEQ must propose changes to the rules in order to ensure that construction approvals are receiving the appropriate reviews and that the National Ambient Air Quality Standards are protected.

DEQ worked with stakeholders on the Rules Advisory Committee and also took comment from the public during each RAC meeting. RAC meetings took place beginning in December 2021 through May 2022. The RAC was able to review the draft proposed rules and the fiscal impact statement for a whole month before public notice began.

DEQ cannot control whether a source decides to relocate to states and countries with far less environmentally conscious regulatory practices. It is DEQ's mission to be a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water. In support of that mission, DEQ develops and implements a wide range of pollution controls, including regulating air pollution from the industry and transportation. DEQ cannot sacrifice the health of Oregonians by letting sources emit more air pollution when it can be efficiently and effectively controlled. Mobile sources do contribute to environmental impacts but screening analysis by CAO indicates that the emissions from facilities pose the greatest health risk to people residing within a one mile radius of the facility. Therefore, regulating impacts from permitted facilities is a critical component of protecting public health.

DEQ included the following provisions in the proposed rules to ensure that Oregon businesses thrive:

- Extending permit terms for Simple permits, so businesses with these types of permits will not need to expend the time to file permit renewal applications as often;
- Permitting businesses at their capacity to emit to minimize the number of permit modifications that may be required;
- Offering technical assistance to small businesses if they are required to perform ambient air quality analyses so they do not have to pay consultant fees; and
- Providing more types of General permits if businesses are of the same industry type.

The Notice of Proposed Rulemaking included a section on Statement of Fiscal and Economic Impact. When developing the Statement of Fiscal and Economic Impact, DEQ uses available information to project any significant effect of the proposed rule. DEQ is not required to conduct original research or hire experts. DEQ asked the Rules Advisory Committee to provide input on the Statement of Fiscal and Economic Impact in order to make the cost estimates more accurate. DEQ received input from only one RAC member on the cost of hiring a consultant and performing air quality modeling, which was included in the Statement of Fiscal and Economic Impact.

Washington State requires BACT for all emissions units, including fugitive emissions, for all sources that are required to obtain permits. In the few instances when BACT is economically infeasible, Southwest Clean Air Agency has limited hours of operation to minimize emissions. Modeling is required for emissions greater than the

Significant Emission Rate and for cases where there is a concern (e.g., the source is located near a school). Idaho DEQ permits sources at 1/10th of the SER (1.5 tons per year for PM_{10}; 1.0 ton/year for direct $PM_{2.5}$; 4 tons/year for NO_x, SO_2, and VOC; 10 tons/year for CO), below which sources are considered as below regulatory concern (BRC). A NAACS compliance demonstration is required for all criteria pollutants with emissions exceeding the BRC. The Idaho DEQ modeling thresholds are even lower than Option 1 for the Minor Source Significant Emission Rates (2 tons/year for PM_{10} and direct $PM_{2.5}$; 5 tons/year for NO_x and SO_2). Permitting programs in Washington and Idaho are more stringent than Oregon so sources in Oregon would not be at a competitive disadvantage compared to these states if the Environmental Quality Commission adopted the proposed rules.

IMPROVE OUR PERMITTING PROGRAM/INCREASE REGULATORY CERTAINTY

DEQ has spent countless resources on issues with the NC rules. Sources have submitted construction approval applications under the wrong type of NC change, and they have default approved because DEQ staff did not have adequate time to review the NC application.

Zenith, originally owned by Chevron, operated for decades as an asphalt refinery, under SIC code 2911. When Paramount Petroleum Corporation bought the facility, they received heavy crude oils which it refined into fuel products for sale. Asphalt processing was shut down and only heavy crude oil was being refined. Arc Terminals Holdings, LLC (Arc) became the facility operator in 2014, subsequently changing its name to Zenith Energy Terminals Holdings, LLC in 2018. In 2020, Zenith completed construction of 32 new rail spots and an associated unloading rack for the offloading of rail cars, increasing the total rail spots from 12 to 44 under a Type 1 NC, stating that "the addition will make the operations more efficient and that there would be "no new increase" in VOC emissions. Over time and under different ownership, this facility morphed from an asphalt refinery into a crude oil marine loading facility, changing the primary SIC code from 2911 to 4266 under NCs that default approved without the proper LUCS approvals. Had DEQ staff sufficient time to review these NCs, permit modifications would be required of all of these changes. Changing the primary SIC code from 2911 to 4266 requires a new permit for a new source.

Based on the comments received for this proposed rulemaking, it is obvious that the regulated community does not understand the NC rules. The NC rules clearly state that NCs are required for replacement of equipment. Existing rules already require NCs for like-for-like replacements:

> 340-210-0225 Notice of Construction and Approval of Plans: Types of Construction/Modification Changes
>
> For the purpose of OAR 340-210-0200 through 340-210-0250, changes that involve new construction or modifications of sources or air pollution control devices are divided into the following Types:
>
> (1) Type 1 changes ….
>
> (c) Would not increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than the de minimis levels defined in OAR 340-200-0020;
>
> (2) Type 2 changes ….
>
> (c) Would not increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than or equal to the SER;
>
> (3) Type 3 changes ….

(b) Would increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than the SER but are not subject to OAR 340-222-0041(4);

The definition of "modification" only exempts "like-for-like replacement of components":

(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:

…

(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.

Any replacement of an emissions unit, device or activity would increase the expected life of the source or part of the source. If sources have not been submitting NCs for replacements, they are not complying with the existing NC rules. The proposed rule language will provide clarification and help sources comply.

The proposed rules may cause some delays in construction approvals but DEQ has added safeguards to minimize these delays. DEQ has also added provisions for permit modifications and Construction ACDPs for Type 3 and Type 4 NCs to make these modifications less costly for sources. In addition, DEQ staff always prioritize construction approvals. Proposed rule changes will improve DEQ permitting program by making the rules clearer for DEQ staff and regulated sources. Clearer rules provide for more compliance. Proposed rule changes also strengthen DEQ's permitting program by ensuring compliance with the NAAQS and requiring air pollution control technology when needed.

DEQ will retain most of the existing NC structure. The threshold for Type 1 NCs will be the current de minimis emission levels rather than the proposed 10 pounds/day of aggregated air pollutants. The threshold between Type 2 and Type 3 NCs will remain at the Significant Emission Rate rather than the proposed Minor Source Significant Emission Rate. With the delayed proposal of the Minor New Source Review program, there will be no significant time or cost added to minor projects with the elimination of Generic PSELs, except for the air quality modeling analysis requirement.

DEQ's Type 1 "notice and go" proposal will not require any kind of DEQ approval so construction can happen sooner for projects that qualify as Type 1. This proposed change will streamline permitting of Type 1 NCs. Current rules give DEQ 10 days to approve Type 1 NCs. The ten-day deadline pulls staff from permitting work to meet the deadline and disrupts work.

Review of applications to install pollution control equipment is critical to ensure that the equipment is sized properly and will reduce emissions as stated, especially if the source is using that reduction in emissions to offset increased emissions elsewhere. The control efficiency of the pollution control equipment should be verified through source testing. Emission action levels should be included in the approval to ensure that corrective action is taken to remedy poor performance before a violation can occur.

DEQ is adding the requirement that owners or operators submitting Type 2 NC applications for new or replaced equipment must also submit an air quality modeling analysis. This requirement was included in the proposed rules for Type 3 NC changes but is now limited to new or replaced equipment. This will ensure that construction projects comply with the National Ambient Air Quality Standards. Modeling for a Type 2 and Type 3 NCs is only

for the piece of equipment being installed or replaced, not the whole source, and only for the pollutant that is over the Type 2 or Type 3 NC threshold. This modeling can be done with the simple screening model AERSCREEN. DEQ may develop a lookup table, similar to one developed for Cleaner Air Oregon Level 1 risk assessments. This will make the air quality modeling analysis much simpler, saving time and resources for sources and DEQ. The requirement to protect National Ambient Air Quality Standards is a longstanding one. The proposed rules provide clarity for permittees on how this requirement can be met by requiring an air quality analysis as part of a permit application for a new source and existing sources that are renewing their permit when asked to do so by DEQ.

ENHANCE COMMUNITY PROTECTION AND INCORPORATE ENVIRONMENTAL JUSTICE

DEQ performed air quality modeling to determine if the short-term NAAQS are being protected. Results were summarized in "EPA Significant Emission Rates (SERs) and Short-Term NAAQS: Are permitted Plant Site Emission Limits (PSELs) in Oregon protective of air quality?" In this analysis, only five examples were modeled because of time and data availability constraints:

1. Unit emission rate modeling
2. One data center emergency generator
3. One small facility generator
4. One large facility emergency generator
5. A pellet manufacturer

DEQ's permitted sources are much more complex than what was modeled. Modeling done by Earth Justice, and confirmed by DEQ, showed exceedances at Owens Brockway. Owens Brockway shut down one furnace and installed air pollution control devices in order to comply with the NAAQS, greatly improving public health near the facility. DEQ rejected initial modeling submitted by Coffin Butte Landfill showing compliance with the NAAQS because of the use of an unrepresentative background value for PM_{10}. If Coffin Butte Landfill had used the recommended value, the modeling would have resulted in impacts exceeding the NAAQS. Coffin Butte Landfill resubmitted modeling with a new section of the road paved that showed compliance with the NAAQS.

There are so many variables that go into an air quality modeling analysis that are particular to the individual source. DEQ does not know if a source is contributing or exceeding a NAAQS without air quality modeling analyses. In order to protect the health of Oregonians, including BIPOC communities, and incorporate environmental justice into DEQ rules, DEQ and sources must know with surety that the NAAQS are being protected.

INCREASE PERMITTING ISSUANCE EFFICIENCY

The 2018 Secretary of State's Audits Division found that DEQ should evaluate staffing and workloads among Title V and ACDP permit writers and provide better guidance to both staff and businesses to help reduce the agency's air quality permit backlog. To increase permitting issuance efficiency, facilitate reduction of the backlog, and to align with EPA rules, DEQ is proposing the rule changes listed below:

- Extend permit terms for Simple permits to better allocate DEQ resources to work on more significant permitting issues;
- Provide no expiration date for New Source Review permits that must be incorporated into a Title V permit;

- Expand the use of short-term activity permits for temporary operations in addition to unexpected and emergency activities, providing more flexibility for businesses;
- Provide a petition process for additional industrial categories to have general permits, rather than source-specific permits;
- Require more complete applications at permit renewal to ensure DEQ staff have sufficient information to process the renewal applications;
- Require additional information to be submitted by a date certain with an opportunity to request more time if needed rather than allowing 90 days for all submittals;
- Clarify reinstatement procedures for owners or operators whose permits have been terminated because of a late permit renewal application or late payment of fees;
- Add a 1-bromopropane (1-BP) to the list of state Hazardous Air Pollutants to make it consistent with its listing under Section 112 of the Clean Air Act, as recently added by the EPA; and
- Provide flexibility for Exempt Toxics Emissions Units under Cleaner Air Oregon.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 7, 11, 13, 14, 15, 16, 17, 21

Suggested Change #71: Consider timelines for issuing construction approvals

Description: In the proposed rules, Oregon DEQ has removed generic plant site emission limits (PSELs) and thereby set PSELs to the facility's potential to emit (PTE) for regulated pollutants. Additionally, there is no change allowed to the PSELs for a notice of intent to construct (Type 1 or 2 change). With these two updates alone, DEQ has significantly reduced the types of projects that would be considered for Type 1 or 2 changes, and under the new rules, the same projects would now require a permit modification (i.e., Type 3 or 4). The proposed regulations provide no timeline for agency approval or permit issuance for Type 3 or 4 changes which would allow regulated sources to estimate when construction for projects may commence.

As an example, a facility wants to add a new piece of equipment to their process that would result in a de minimis increase in annual potential emissions. Consider the following conclusions under the current regulations versus the draft rules:

- Under current regulations, this would be considered a Type 1 change with a predictable ten day agency approval period prior to installation with no public comment period.
- Under the draft rules, this project would be considered a Type 3 change which has no concrete air permit processing timelines. For this example, there would be no change to permit application requirements except the mechanism requiring a Type 3 change under the new rules. However, the timeline associated with the received permit is expected to be different, with no predictable timeline metric, and will include a public comment period of at least 30 days.

Another example would be a new piece of equipment that has a potential emission rate of 1.5 tons per year (tpy) of particulate matter with an aerodynamic diameter of 2.5 microns or less ($PM_{2.5}$) at a facility with a PTE of 3 tpy of $PM_{2.5}$. Consider the following conclusions under the current regulations versus the draft rules:

- Assuming a maximum achievable control technology (MACT) or typically available control technology (TACT) determination is not required, this would be considered a Type 2 change under the current

regulations as emission increases would be greater than de minimis levels but less than the SER and no change to the (generic) PSEL. Thus, the proposed project would be classified as a Type 2 change under the current regulations. A type 2 change is approved within 60 days.

- Under the draft rules, this would be a Type 3 change because there would be an increase to the PSEL. Again, there would be no change to permit application requirements since the potential emissions increase is less than the minor source SER; however, the source would no longer be able to estimate when a permit may be issued and when construction for projects may commence.

As highlighted in these two examples, minor projects will be pulled into permit modification requirements that offer little predictability in expected permit timelines and do not provide corresponding environmental or health benefits to the public. To ensure this doesn't happen, we suggest a few options:

1. Allow changes to PSEL for Type 1 and 2 changes to be equal to the allowable increase in potential emissions for a Type 1 or 2 changes. For a Type 2 change, this would be allowed up to the minor source SER; OR

2. Set permit limits to minor source SER levels as opposed to the historic generic PSELs and the proposed PTE for regulated pollutants.

Response: Under the current rules, no increase in Plant Site Emission Limits is allowed under Type 1 or Type 2 NC changes. Any PSEL increase currently requires at least a Type 3 permit modification and public notice. The existing rules do not provide a timeline for agency approval or permit issuance for Type 3 or 4 changes. DEQ staff always prioritize construction approvals before permit renewals in order to not delay construction. The proposed rules do not change these requirements.

DEQ will retain most of the existing NC structure. The threshold for Type 1 NCs will be the current de minimis emission levels rather than the proposed 10 pounds/day of aggregated air pollutants. The threshold between Type 2 and Type 3 will remain at the Significant Emission Rate. With the delayed proposal of the Minor New Source Review program, there will be no change in the type of NC application that a source must submit for construction under the proposed rules.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 12

Suggested Change #72: Choose Option 2 for minor source Significant Emission Rate

Description: Oregon DEQ specifically requested comment on the minor source significant emission rates. As the draft rules are written, these rates will be used to determine when air dispersion modeling and/or a minor source emission reduction technology (MSERT) evaluation must be completed.

Trinity recommends that Oregon DEQ move forward with Option 2 for the Minor Source SER. The 10 tpy limit for nitrogen oxides (NO_x) and sulfur dioxide (SO_2) is consistent with the threshold to obtain an ACDP. Examples of emission units that may have emissions greater than Option 1, but less than Option 2 as determined by AP-42 emission factors and continuous operation are quite small including:

- 23.0 million British thermal units per hour (MMBtu/hr) uncontrolled natural gas fired boiler,
- 1.32 MMBtu/hr wood/bark fired boiler,
- 1 MMBtu/hr natural gas engine,

- 73 horsepower (hp) diesel engine, and/or
- 15,450 dry standard cubic feet per minute (dscfm) baghouse.

Response: DEQ decided to propose the Minor New Source Review program in a future rulemaking. EPA is currently reviewing existing Minor New Source Review programs across the country to identify best practices to strengthen the effectiveness of state Minor New Source Review programs. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements.

The future rulemaking also provides DEQ time to address staffing shortages and training needs for new staff. DEQ is committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions in communities that are underserved and overburdened with a disproportionate impact from air pollution.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 12, 15

Suggested Change #73: Allow the use of averaging or other methods to decrease cost and time associated with refined air quality modeling

Description: From an air dispersion modeling perspective, it is unlikely that an emissions increase described in Option 1 would show modeled concentrations that exceed the national ambient air quality standards (NAAQS), assuming all AERMOD allowable options are used as listed below:

- NO_x – NO_x emissions typically are generated from combustion emission units. Combustion units have higher exhaust temperatures and flowrates which provides better dispersion. Models for this pollutant can be complicated but are often completed in a conservative manner to reduce consulting costs. These conservative models are used to show compliance with air quality standards, not necessarily to show what concentrations may actually occur at receptors nearby of the emission unit. When all techniques of NO_x modeling are employed, such as hourly and seasonal background ozone concentrations, hourly and seasonal background nitrogen dioxide concentrations, operating hour restrictions, and even Monte Carlo simulations – results for emission units with a PTE between Option 1 and Option 2 thresholds are expected to be below NAAQS.
- SO_2 – Similar conclusions to NO_x without as many refinements available to AERMOD. However, SO_2 is primarily a concern for coal power plants or other higher sulfur fuels that are not typically used in Oregon, nor allowable for new facilities.
- PM_{10}/ $PM_{2.5}$ – Both Option 1 and Option 2 for particulate emissions are relatively low. As such, it seems unreasonable to require air dispersion modeling for emission units that have a PTE of 3 tpy (or 2 tpy). The implementation of air dispersion modeling will force facilities which have not been required to undertake such significant efforts to demonstrate compliance with the NAAQS, notably small facilities and small businesses. This is significant because smaller facilities (i.e., annually lower emitting facilities) typically have operations that are less conducive to AERMODs base or simpler assumptions. When a facility completes modeling, typically, the model is setup to allow continuous operation at the physical or operational capacity of emission sources. However, operations at smaller facilities often occur on an intermittent basis. A few examples that do not fit the assumption of continuous operations that would be more likely to occur at small facilities are as follows:

- Maintenance and testing emissions from emergency equipment;
- Limited operations on a shift schedule, e.g., 8 am to 5 pm;
- Materials or equipment used at specific client request, indicating rare short term use; and/or
- Operations occurring less frequently than daily, such as coating A typically applied on Tuesdays or infrequent large raw material receiving.

While AERMOD has mechanisms to model these operations (i.e., handle the infrequency of use or adjusted schedule), these are not base assumptions. There are additional steps required which incur higher consulting costs and longer agency review time. Furthermore, permit conditions requiring additional records to prove compliance with general onsite practices may be required. The cost of modeling, and subsequently proving compliance, becomes a significant financial burden on a smaller facility that has the same or more recordkeeping requirements than a larger one.

The data center industrial group has had many facilities, and some of the most recent facilities, permitted under Oregon's Cleaner Air Oregon (CAO) program. This indicates a large growth sector within the state. Oregon DEQ has recently processed NAAQS compliance demonstrations for a few data centers that required Monte Carlo demonstrations. Statistical analyses such as those that use the Monte Carlo method requires additional complex modeling inputs and capabilities. Since engines may be operated in a multitude of arrangements or loads, DEQ has requested a statistical method be used to show compliance with the ambient air quality standards. The Monte Carlo analyses are resource and time intensive. The analyses require modeling individually for several maintenance and testing scenarios, and the results then serve as inputs to yet another separate model to randomize potential operational scenarios. This method requires specialized consulting resources and computer(s) with tremendous processing power and memory.

A suggestion to accommodate the more agile nature of smaller businesses as well as inconsistent or non-continuous operations may be to allow the use of averaging or other methods to decrease cost and time associated with refined methods. Demonstration of NAAQS compliance can be achieved using an annualized emission method for NO_2 and $PM_{2.5}$. Annualized methods allow for use of calculated emissions with an annual averaging period that assume continuous operation. This would reduce the burden of providing representative background data for Oregon DEQ, the need for time- and resource-intensive specialized modeling methods, and the need for specialized modeling resources. The annualized method is currently recommended by EPA in Additional Clarification of Guidance for Implementation of the 1-hour NO_2 NAAQS Under PSD (epa.gov)and used in Ohio and Maricopa County, AZ as a standard practice. Oregon DEQ may consider tying this simpler method to a requirement to add control technology to emergency generators or Tier 4 compliant units.

Response:

Comment 1:

From an air dispersion modeling perspective, it is unlikely that an emissions increase described in Option 1 would show modeled concentrations that exceed the national ambient air quality standards (NAAQS).

Response 1:

Annual emissions are not a good indicator of likelihood of short-term NAAQS exceedance. Short-term NAAQS (24-hours or less) are impacted by short term emission rates. A facility that operates with high emissions for a short period of time, such as an emergency generator, would have relatively low annual emissions but the potential to cause elevated short-term impacts, potentially above the NAAQS.

Comment 2:

NO_x emissions typically are generated from combustion emission units. Combustion units have higher exhaust temperatures and flowrates which provides better dispersion.

Response 2:

DEQ agrees that NO_x is typically associated with combustion units. While some of these combustion units have good dispersion parameters, there is wide variety of designs, such as horizontal exhausts and lower stack heights that may increase ground level impacts compared to high vertical stacks.

Comment 3:

When all techniques of NO_x modeling are employed, such as hourly and seasonal background ozone concentrations, hourly and seasonal background nitrogen dioxide concentrations, operating hour restrictions, and even Monte Carlo simulations – results for emission units with a PTE between Option 1 and Option 2 thresholds are expected to be below NAAQS.

Response 3:

Without knowing the short-term emission rates of the facility, DEQ does not know if emissions at the Minor SERs would be below the NAAQS. However, it is true that several refined modeling techniques can be used to estimate the impact of NO_2 more accurately in ambient air. These modeling techniques are frequently combined with design and operational assumptions that show NAAQS compliance. These can range from higher stacks, production limits, varied operating times for similar units, to nighttime operational restrictions. For data centers in particular, it is the combination of refined modeling techniques and operating assumptions that has led to many facilities showing compliance with short-term NAAQS.

Comment 4:

SO_2 – Similar conclusions to NO_x without as many refinements available to AERMOD. However, SO_2 is primarily a concern for coal power plants or other higher sulfur fuels that are not typically used in Oregon, nor allowable for new facilities.

Response 4:

DEQ agrees that SO_2 is less of a concern in Oregon than NO_2 and $PM_{2.5}$. Many facilities in Oregon are below the Significant Emission Threshold for SO2 and are not required to conduct SIL or Cumulative NAAQS modeling. However, DEQ does not expect many occurrences of SO_2 modeling based on the industrial makeup of the state's sources.

Comment 5:

PM_{10}/ $PM_{2.5}$ – Both Option 1 and Option 2 for particulate emissions are relatively low. As such, it seems unreasonable to require air dispersion modeling for emission units that have a PTE of 3 tpy (or 2 tpy).

Response 5:

Due to the high background of $PM_{2.5}$ in many Oregon communities, small $PM_{2.5}$ emissions can contribute to NAAQs exceedances. An annual emission rate cannot be used to determine if a source above the proposed Minor SER would cause a $PM_{2.5}$ NAAQS exceedance.

Comment 6:

The implementation of air dispersion modeling will force facilities which have not been required to undertake such significant efforts to demonstrate compliance with the NAAQS, notably small facilities and small businesses.

Response 6:

For small facilities that are above the Minor SER, DEQ has the Significant Emission Threshold (SET) as the next screening level for modeling. Facilities with short-term emissions below the SET will not have to conduct modeling. Facilities with short-term emissions above the SET will be required to conduct modeling. Use of the SET will reduce the burden on small facilities with lower short-term emissions.

Comment 7:

Demonstration of NAAQS compliance can be achieved using an annualized emission method for NO_2 and $PM_{2.5}$.

Response 7:

The annualized method, as outlined by EPA is only appropriate for specific types of intermittent sources. Specifically, DEQ interprets the EPA memo as using the annualized method for intermittent sources that are not part of the typical processes at the facility. For example, a small emergency generator that provides backup power to a wood products facility. This contrasts with large emergency generators at data centers. The generators are typically the only emitting unit at a data center and the primary source of emissions. The annualized method should not be used for sources that have the potential for high hourly or daily emissions since the annualized method will under predict the overall air quality impact. Except in cases where the intermittent emission unit is not part of the primary emission source or process at the facility, DEQ does not accept the annualized method for showing NAAQS compliance.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 12

Suggested Change #74: Provide predictable permit processing

Description: Over the past five years, Oregon DEQ has made major changes to staffing, regulations, and policies that have impacted the capabilities of industry overall to respond to drastic changes in market demand, and more recently, to maneuver through supply chain issues.

- Oregon DEQ has implemented regulations for toxics through Cleaner Air Oregon, which has proven challenging for the industrial sector to provide information necessary to obtain a permit. Oregon DEQ has continually updated guidance and expectations associated with submittals needed to demonstrate acceptable risk.
- Oregon DEQ added a policy to require air dispersion modeling for short term NAAQS standards for NO_2, SO_2, or $PM_{2.5}$ emissions at new sources.
- Several tenured permit writers have retired in recent months leaving the agency with few experienced permit writers, and several new or inexperienced staff. DEQ has struggled to find replacements with industrial and regulatory expertise.
- The Oregon DEQ now has several different departments/groups involved in a single air permit application, including, as an example, a single project may warrant multiple communications with

different Oregon DEQ staff such as a permit writer, modeler, CAO member, climate policy advisor, manager, and several others.

What is Oregon DEQ's plan to provide appropriate staffing levels and communication between staff to ensure applications can be processed in a timely manner? How will Oregon DEQ attract new employees in the current market?

Trinity has a few suggestions to assist Oregon DEQ with the predictability of permitting timelines:

1. Consider an online queue indicating the number of applications in review or awaiting review, and typical review timeline. Similar to what might be observed in hospitals and clinics that indicate wait time until available appointment.

2. Provide/assign/allow third party permit writers, stack testers, modelers, and other experienced professionals to review submitted applications. This would reduce time spent by agency personnel and allow facilities to submit an application that has already been reviewed. Potentially a facility could submit an application to the third party, and that third party would submit a draft permit with the review report for the agency to review/issue.

a. This sort of practice is already being completed with Oregon's greenhouse gas emission third party review requirements.

3. Post example reports, forms, and applications that have been submitted and detail why these reports are helpful submissions to ensure expedited review.

4. Provide annual training sessions on permit applicability and expected application contents. Use training as a method to reduce applications submitted that have to be revised. Usefulness of this training could be tracked with a checkbox on permit application forms to see if the person completing the application.

Response: CLEANER AIR OREGON

In 2015, DEQ and the Forest Service found cadmium levels 49 times higher than the top of DEQ's acceptable range and arsenic levels 155 times higher at locations near the Bullseye plant. A loophole in state and federal regulations had allowed the emissions to go unchecked. Governor Kate Brown launched the Cleaner Air Oregon rulemaking process in April 2016 after communities around the state raised concerns about their exposure to potentially harmful heavy metals, chemicals and other pollutants from factories and other industrial sources. Oregon's existing rules were based on federal law. These existing rules allowed industrial facilities to release potentially harmful amounts of air toxics, but still operate within legal requirements. Oregon DEQ updates guidance and expectations associated with submittals needed to demonstrate acceptable risk based on updated rules and experience with implementation.

SHORT-TERM NAAQS MODELNG

Modeling done by Earth Justice, and confirmed by DEQ, showed exceedances at Owens Brockway. Owens Brockway shut down one furnace and installed air pollution control devices in order to comply with the NAAQS. DEQ rejected initial modeling submitted by a landfill showing compliance with the NAAQS because of unrepresentative background value for PM_{10}. If the landfill had used the recommended value, the modeling would have resulted in impacts exceeding the NAAQS. The landfill resubmitted modeling with a new section of the road paved that showed compliance with the NAAQS. DEQ does not know if a source is contributing or exceeding a NAAQS without air quality modeling analyses.

DEQ RETIREES

All organizations experience staff shortages when people retire. DEQ is committed to hiring experienced permit writers to make the transition easier. In addition, DEQ staff communicate with each other across programs. The Title V program, part of the 1990 Clean Air Act Amendments, specifically addresses the issue of having a single permit that contains all requirements.

Over the next two years, DEQ will be upgrading and streamlining the way it accepts, processes and shares information. This is an important and exciting upgrade to the way DEQ does business now, both internally and with the public. The new Environmental Data Management System, called Your DEQ Online, will provide an easy and intuitive online system for connecting to DEQ. The agency's goals for Your DEQ Online are:

- To make services more accessible to stakeholders and the public
- To save applicants time and resources on application submissions
- To streamline DEQ processes and reduce the ongoing costs of collecting and maintaining submission data
- To provide faster turnaround time for issuing licenses/certifications/permits
- To meet federal electronic reporting standards
- To improve transparency and management of publicly available environmental data

DEQ has considered hiring contractors to perform certain tasks but has not done so. If the budget allows and if management agrees, this may be an option. Usually small businesses are the sources that require additional assistance in permitting issues. DEQ provides technical assistance to small businesses free of charge.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 12

Suggested Change #75: Provide clarity on the status of current air permit applications and renewal applications already submitted

Description: DEQ's proposed rule does not address air permit applications that were submitted prior to the proposed rule becoming effective. Air permit applications and air permit renewal applications submitted to DEQ under the current rules were pre-pared by facilities based on the current rule requirements. Initial air permit applica-tions and Title V permit renewal applications are time consuming for facilities to prepare. Applications are typically prepared 6-9 months prior to submittal to DEQ. The approach and requirements for preparing an initial air permit application or a Title V permit renewal application under the current set of rules would be different under these proposed air rules given the expansive number of proposed changes and sig-nificance of these proposed new rules. Clarity should be included in the proposed rule on the method DEQ will take for those applications previously submitted. Appli-cations submitted to DEQ under the current rules should be processed and air per-mits issued by DEQ using the current rules. As such, DEQ should include language addressing air permit applications and air permit renewal applications submitted prior to the effective date of the proposed rules.

For example, EVRAZ is concerned that an air quality analysis (modeling) as part of a permit renewal process, as indicated in these proposed rules is unnecessary. Partic-ularly if the permit renewal shows there are no substantial changes in facility opera-tions and no increases in emissions. Cleaner Air Oregon program implementation has already highlighted the challenges DEQ faces with review and processing of the various facility modeling efforts. The stability of a Title V permit renewal with a layer of modeling added to the process would cripple a facility's optimism for a timely Title V permit renewal despite best efforts.

Clarity as to transition policy

DEQ is proposing very significant changes to the NOC program. In order to provide regulatory certainty and fairness to the regulated community, we request that DEQ clearly state that NOC applications will be handled under the rules in effect at the time that the application was received. Such language would provide certainty to agency staff and the sources subject to these requirements. Requiring applications submitted in good faith under one set of rules to comply with rules that were not in existence when the application was submitted would not be equitable and, quite possible, not legal either. Most importantly, it is good policy to approach the rule transition in this manner.

Response: The proposed rule changes for ACDP and Title V permit applications include information that DEQ staff need to write new or renewed permits. Many times incomplete applications are submitted and DEQ staff must ask for the information that is included in the proposed rules. For applications submitted before the effective date of the proposed rules, DEQ staff may need to ask for this information if it is not included. Therefore, DEQ is not changing the rules to address this comment.

Sources that have been called into Cleaner Air Oregon have been given the option of doing the short-term NAAQS modeling at the same time. This option would save resources for both sources and DEQ since the modeling and review could be done in one step instead of two.

DEQ is not requiring sources to submit short-term NAAQS modeling with their permit renewal applications. Permit conditions requiring short-term NAAQS modeling submittal in the future are included in renewed permits or the information is requested through DEQ's authority under OAR chapter 340, division 214. This is expected to give sources adequate time to perform the modeling. As stated in other responses to comments, DEQ is requiring short-term NAAQS modeling to ensure the NAAQS are protected. Sources cannot know if they are complying with the NAAQS unless modeling is performed.

DEQ agrees that NC applications should be handled under the rules in effect at the time that the application was received.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 15, 20

Suggested Change #76: Provide certainty in the form of a clear and streamlined process for modeling

Description: Provide certainty in the form of a clear and streamlined process for modeling that only requires modeling for major modifications subject to New Source Review and actions that increase emissions at a facility above established thresholds, or at a minimum requires repeat modeling only in specific circumstances moving forward under reduced or simplified standards. As proposed, OAR 340-216-0040(3)(d) would grant DEQ the discretion to require modeling for any permit modification, even if the modification does not include an increase in emissions or otherwise suggest a threat to NAAQS attainment. The same would be true at permit renewal. As environmental justice considerations are a large factor in DEQ’s rulemaking process, DEQ should critically consider that additional process requirements affect our members’ (often the largest job creators in the community) ability to plan for the future and to sustain or increase jobs. When a mill cannot predictably explain the requirements or timeline for a permit action (or when permitting is overly expensive or onerous) that often

translates into funding for projects going elsewhere. DEQ's proposal to include repeated air quality analysis subverts its stated environmental justice goals. NWPPA suggests simplifying the criteria for when modeling is required to accommodate these environmental justice principles and to provide mills more certainty and ability to plan for the significant expenditure of the technical resources, time and costs required to perform modeling analyses.

NWPPA suggests that after initial modeling is done at a facility, DEQ should reduce the circumstances triggering repeat modeling only to: (a) there is a reasonable basis to believe that a NAAQS exceedance might occur and (b) the source is requesting an increase in plant site emission limits. Changes that neither threaten a NAAQS exceedance nor increase emissions should not trigger additional modeling requirements.

NWPPA also proposes reducing the circumstances triggering repeat modeling by limiting modeling for new or modified emission units to pollutants that increase above an established significance threshold, and provide exemptions for all project emissions increases below de minimis thresholds, to avoid modeling for pollutants with only minor increases resulting from the project. The language of the proposed rule suggests a Type 3 change triggers modeling for all criteria pollutants. Our proposed change provides clarity, is consistent with the current short-term NAAQS modeling guidance, and would be similar to current Type 4 changes where only pollutants that exceed the netting basis by more than the SER trigger modeling.

Similarly, DEQ should consider allowing abbreviated modeling protocols and reports for subsequent modeling demonstrations that only require identifying items that have changed since the last demonstration. At a minimum, DEQ should streamline the modeling process by developing modeling resources available to facilities and consultants. For example, presumptive meteorological datasets for use anywhere in the state and co-contributing source inventories. Other states have these resources available, and it can save significant time and money for model development.

Two stated goals of this rulemaking are to increase permitting issuance efficiency and to increase regulatory certainty. Given existing staff constraints around modeling requirements for Cleaner Air Oregon (CAO), it is beneficial to DEQ staff to specify when the additional component of modeling would apply and when the proposed modeling requirement would be required from an applicable source. We propose DEQ clarify that the initial modeling requirements under these rules will occur at the next permit renewal, unless the renewal occurs within 18 months (or a comparable time period) of the effective date of the proposed rule.

Response: DEQ agrees in part with the commenter.

Based on DEQ's modeling of two existing sources that were not subject to New Source Review and were not increasing emissions, exceedances of the NAAQS were discovered. Requiring modeling only for major modifications subject to New Source Review and actions that increase emissions at a facility above established thresholds does not protect the NAAQS. Therefore, DEQ is proposing to require air quality modeling for Type 2 and Type 3 NCs. In addition, under current authority, DEQ is requiring existing sources to perform air quality modeling at permit renewal when notified by DEQ to do so.

When determining when modeling will be required, DEQ will take its staff resources into account so that permit renewals and construction approvals are not delayed by this work. DEQ will exercise its reasonable discretion to determine, based on the information available regarding a source's emissions, whether it has sufficient information to conclude with reasonable assurance that the source will not violate the NAAQS. If DEQ cannot reach such a conclusion, then it will require the source to conduct modeling. For some recent permit renewals where DEQ is requiring modeling, DEQ has included a permit condition requiring submittal of the modeling results at a future date, staggered to ensure DEQ staff have time to review. This also gives sources adequate time to do the modeling. If the modeling shows that the NAAQS are protected, DEQ does not anticipate that modeling

will be required at every renewal or possibly ever again unless emissions increase. If the modeling shows impacts close to or exceeding the NAAQS, additional modeling may be needed.

DEQ agrees that jobs are an important factor when considering environmental justice, but sources are not allowed to exceed the NAAQS, regardless of how many jobs they provide to community members. The Clean Air Act requires all sources to comply with the NAAQS. If a source moves to a different state, they will be required to comply with the NAAQS in that state. Air quality modeling is not required before a permit can be renewed. The renewed permit will include a permit condition to require air quality modeling in the future, giving sources ample time to perform the modeling. Sources have the option of doing air quality modeling for short-term NAAQS at the same time they do modeling for Cleaner Air Oregon. This would save resources for both the source and DEQ so modeling and review are done once instead of twice.

DEQ is continually looking at ways to streamline modeling reviews. In the past few years, that has focused on the Cleaner Air Oregon process. Steps that have been taken to improve the process include a step-by-step website with numerous documents such as quick guides and modeling resources. DEQ is also actively working to create tools for facilities to use such as a Level 1 Risk Assessment Tool. As we gain more experience with the short-term NAAQS IMD implementation, DEQ will continue to examine the review process and look at where the agency can improve efficiencies, both for review time and a facility's time in model development. DEQ will consider all aspects of the process, including abbreviated submittals for modifications, meteorological datasets, and competing source inventories, as well as submittal templates. The speed at which these resources will become available will depend on modeling staff workload and agency priorities.

DEQ agrees that future modeling should be limited to those instances when a reasonable basis to believe that a NAAQS exceedance might occur, and the source is requesting an increase in Plant Site Emission Limits. Until initial modeling has been done at most facilites, DEQ does not have a reasonable basis to believe that a NAAQS exeedance might occur. Please see the Short-Term NAAQS Analysis Quick Guide that contains trial Significant Emission Thresholds (SETs). DEQ anticipates using these trial SETs for establishing when re-modeling may be required. In addition, future modeling would be done only for the emissions unit being constructed or modified.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 19

Suggested Change #77: Allow for postmark or time stamp on electronic submittals through Your DEQ Online

Description: OAR 340-200-0020(84) and 340-220-180(1)

The proposed change to 340-200-0020(84) and 340-220-180(1) from "postmarked" to "received" is both inappropriate and a substantial change. Simply because DEQ has created the Your DEQ Online (YDO) system that doesn't have the ability to account for postmarks is absolutely the WRONG reason to suggest this change. This change is inconsistent with federal EPA methods and protocols for acceptable submittals under various CAA regulations. DEQ should not expect sources to submit fee payments for substantial permit fees online. DEQ also must not ignore postmarks that prove large checks for fees were submitted on time.

If DEQ must create language that addresses YDO, language similar to how EPA recognizes timely submissions in 40 CFR Part 70 would be the appropriate way to accomplish this. Our suggested language (if DEQ continues to

believe a change must be made to accommodate YDO payments is required: "…postmarked or time stamped on an electronic submission through YDO...".

Response: DEQ is moving to a more secure system for receiving payments. Facilities making payments related to AQ permits and most other DEQ programs will have several options, including paying online with a credit card, paying online with an ACH (Automated Clearing House) payment, or mailing a check to a bank lockbox. A credit card fee applies when paying with a credit card, but does not apply when paying by ACH or check.

The bank lockbox process does not include the ability to record the postmark date on the envelope, so using the postmark date to determine whether a payment was made on time will no longer be an option.

Instead, DEQ will rely on the date the payment is received. A credit card or ACH payment will be considered received at the moment the facility has submitted the payment online. A payment by check will be considered received on the day when the bank lockbox receives the envelope containing the check.

For air permit payments, DEQ will continue to provide a 7-day grace period. This means that late fees will not be added unless a payment was received more than seven days after the due date.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 19

Suggested Change #78: Clarify at that Kraft mill sources are exempt from the opacity standards at 340-208

Description: The proposed addition of 340-208-0110(1)(b) does not actually include all the sources exempt from the rule under 340-234-0210(4). As such, 340-208-0110(1)(b) should read: "Kraft mill" sources regulated for visible emissions (i.e. opacity) under 340-234-0210(4)". "Emissions from each Kraft mill source" are regulated for opacity under 340-234-0210(4) and, therefore, should not be included under 340-208-0110. Clarification at 340-234-0210(2)a(c) that Recovery furnaces are exempt from the opacity standards at 340-208 is a good improvement. DEQ should also clarify at 340-234-0210(4) that "Kraft mill" sources are exempt from the opacity standards at 340-208.

Response: OAR 340-234-0210(4) states: "Emissions from each kraft mill source, with the exception of the mill's emissions attributable to a recovery furnace, may not equal or exceed 20 percent opacity as a six minute average." Emissions from a smelt dissolving tank vent are attributable to a recovery furnace so do not have an opacity limit in division 234. If DEQ exempts all kraft mill sources from the opacity limits in division 208, then the smelt dissolving tank vents would not have an opacity limit.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 19

Suggested Change #79: Address economic impacts of proposed rules on small businesses

Description: Many small businesses have been significantly impacted by the pandemic and have not recovered. Reducing flexibility, making modifications and permits harder and more costly to obtain will significantly impact small business and will potentially do more harm than good to many communities including low income communities and communities of color. DEQ has not adequately addressed the economic impacts of the proposed rules on small businesses. DEQ should consult with other state agencies to fully evaluate (and then mitigate) the potential economic impacts resulting from the proposed rules.

Response: The public notice included a Statement of Fiscal and Economic Impact which clearly stated that the proposed rules may have a negative fiscal impact on small businesses. DEQ cannot quantify the fiscal impact on small businesses because DEQ does not have that information. Businesses do not provide information on the cost of pollution control nor the cost of compliance to DEQ. DEQ asked the Rules Advisory Committee members, some of whom represent small businesses, for details on how the proposed rules would impact small businesses multiple times but received no information. As required by law, DEQ included mitigation measures in the proposed rules that would mitigate the fiscal impact on small businesses.

With the delay of the Minor New Source Review program, the costs associated with that proposed program will not occur. Sources will still be required to perform air quality modeling for Type 2 and Type 3 NC changes. (See the response to Provide certainty in the form of a clear and streamlined process for modeling comment and the response to Retain the existing notice of construction structure comment.)

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 16

Suggested Change #80: Do not include applicable requirements in the definition of excess emissions

Description: OAR 340-200-0020(63) - Excess Emissions

DEQ should not revise the definition of “Excess emissions” to include “an applicable requirement.” Deviations from operating specifications, work practice standards, recordkeeping requirements, performance testing and/or or monitoring and reporting should not be considered “Excess emission” events requiring the source to immediately reduce or cease operation of the equipment or facility as required under OAR 340-214-0330. Excess emissions should be limited to events which cause an exceedance of a specific emission limit or risk limit in a permit attachment issued under OAR chapter 340, division 245. This proposed revision creates ambiguity. At a minimum, DEQ should clarify what “an applicable requirement” means.

Response: The proposed definition of excess emissions says "emissions in excess of..." Therefore, emissions wouldn't exceed an applicable monitoring or reporting requirement. Emissions could only exceed an emissions limit or standard. DEQ clarified the proposed language so that excess emissions are in excess of emission limits or risk limits.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 16

Suggested Change #81: Change the thresholds for the different types of NCs

Description: OAR 340-210-0225(1) - Type 1 Changes

DEQ's proposed revisions to Type 1 changes would eliminate a number of small projects that have no realistic impact on compliance with the NAAQS or the regulated community. A source that wants to replace a device, process or activity that results in potential emissions of more than 10 lbs. per day (less than 2 tons per year), in the aggregate, of any regulated air pollutants would automatically be forced into a Type 2 change regardless of whether the source's actual emissions are well below its PSEL, regardless of compliance with the NAAQS and regardless of the regulated air pollutants. This is going to result in increased cost for DEQ staff and the source and is wasteful of resources. At a minimum, DEQ should increase the Type 1 change threshold to a potential increase in less than or equal 5 tons per year for criteria pollutants. To qualify for a Type 1 change, sources will still need to demonstrate that the increase in emissions will not result in an exceedance of the source's PSEL.

DEQ should revise the criteria under 0225(1)(a)(C) to "… an increase of emissions from the source above any PSEL by more than the de minimis emission levels defined in OAR 340-200-0020." This is consistent with the current Type 1 changes that allow de minimis increases.

DEQ should revise the list under 0225(1)(b) to include the construction or replacement of new emergency generators and/or fire pump engines provided there is no increase in emissions from the source above any PSEL by more than the de minimis emission levels. While the proposed list includes stationary internal combustion engines having a rated capacity of less than 60 horsepower output, this is too limiting. Such emergency generators and/or fire pump engines are subject to applicable federal NSPS or NESHAPs standards and should be subject to only a Type 1 NIC.

OAR 340-210-0225(2) - Type 2 Changes

As noted above, the proposed "Minor source significant emissions rates" for determining Type 2 and Type 3 changes are too low. Type 2 changes should allow increases up to 75% of the existing SERs provided the other criteria are met. DEQ should also revise the criteria under 0225(2)(b) to "… an increase of emissions from the source above any PSEL by more than the de minimis emission levels defined in OAR 340-200-0020. This is consistent with the current Type 2 changes that allow de minimis increases.

OAR 340-210-0225(3) - Type 3 Changes

DEQ should also revise the criteria under 0225(3)(A)(b) to "… an increase of emissions from the source above any PSEL by more than the de minimis emission levels defined in OAR 340-200-0020 . . .." This is consistent with the current Type 3 changes that allow de minimis increases.

One of the most concerning aspects of the proposed rules is how they severely limit the scope of Type 2 NOCs. DEQ informed the RAC that, on average, it receives 72 Type 2 NOCs per year and just two Type 3 NOCs per year. Type 3 NOCs are presently limited to those situations where the proposed change is so large that it requires obtaining a new Air Contaminant Discharge Permit ("ACDP")—currently, at minimum, a 9-to-12-month process. DEQ is proposing to substantially decrease the size of projects that qualify for Type 2 NOCs and correspondingly increase the number of projects that must obtain a Type 3 NOC. Specifically, DEQ is proposing that any project

with the potential to emit at the minor new source SER or more must obtain a Type 3 NOC, with the associated year of process and substantial permitting cost. The proposed minor source SERs are proposed to be set as low as 2 tons per year for PM_{10} and direct $PM_{2.5}$ and 5 tons per year for SO_2 and NO_x. Such levels are inappropriately low and unworkable. For example, a source consisting of a 29 MMBtu/hr natural gas boiler is too small to require a Simple ACDP, and yet if that source replaced that boiler, its NO_x potential to emit would equal 2 tons per year and thus require the source to obtain a Construction ACDP or Simple ACDP prior to installing that boiler. As obtaining an ACDP took at least 9 to 12 months when DEQ was only processing two Type 3 NOCs per year, and Type 3 NOCs historically did not require modeling and a control technology review, it is realistic to expect that the proposed Type 3 NOC process will take over 12 months to complete. DEQ currently processes nearly 200 Type 1 and 2 NOCs annually. Many of these will be shifted into Type 3 status, further underscoring the impracticality of DEQ's proposal. In short, the proposal is not feasible, will overwhelm DEQ and needlessly harm Oregon business. We strongly encourage DEQ to rethink its proposal for Type 2 NOCs and re-notice a different approach.

Response: DEQ decided to propose the Minor New Source Review program in a future rulemaking. EPA is currently reviewing existing Minor New Source Review programs across the country to identify best practices to strengthen the effectiveness of state Minor New Source Review programs. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements.

The future rulemaking also provides DEQ time to address staffing shortages and training needs for new staff. DEQ is committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions in communities that are underserved and overburdened with a disproportionate impact from air pollution.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 16, 20

Suggested Change #82: Require a completeness review within 15 days for Type 2 NCs

Description: OAR 340-210-0240(1)(b)

For Type 2 changes, DEQ should be required to conduct a completeness review within 15 calendar days of receipt of a notice and the applicable fees and any request for additional information must be sent within 30 calendar days after DEQ receives the notice and applicable fees. DEQ should not be able to wait till the end of the 60-day approval period to make up a deficiency and delay the automatic approval.

Response: When necessary to appropriately review and approve construction notices, DEQ will request information up to the end of the period allowed by the rules. DEQ strives to complete construction reviews in a timely manner and has prioritized construction applications over others. Whenever possible, notices will be reviewed as soon as practicable and information requested as soon as possible thereafter.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 16, 20

Suggested Change #83: Allow 5 years to implement NC changes

Description: OAR 340-210-0240(4)

DEQ is proposing an expiration date on construction approvals of 18 months with one 18-month extension for good cause. Construction approvals for minor sources should not be treated as PSD permits or major modifications. There could be equipment delays, construction delays and other events and circumstances (on-going pandemics) outside of the facility's reasonable control. Sources should have at least five years to implement the approved change.

OAR 340-216-0082 and OAR 340-224-0030(4)

DEQ should not incorporate into the minor source permitting program requirements to "commence construction" within 18 months of permit issuance or risk termination if the owner or operator does not continuously engage in construction activities or fails to complete construction within a certain a period of time. These are EPA NSR concepts not applicable to a minor source permitting program. There may be multiple reasons including global supply chain and economic factors why a minor source obtains an ACDP but chooses to delay construction. Minor source permits are not PSD permits where DEQ needs to be concerned about increment consumption. Since 2020, many projects have been put on hold due to covid-19, the uncertainties with the economy and the ongoing hostilities in Ukraine which has disrupted the global supply chain. Having such a provision and requiring owners and operators to submit extension requests for minor sources in attainment areas is not needed and does not advance any of the enumerated purposes for the rulemaking.

Response: Projects approved under the NC rules and the ACDP rules for new sources are much less complex than projects approved under Major New Source Review rules, which are more likely to experience delays. If a project approved through an NC is delayed, the source can request an 18-month extension for good cause. DEQ has received applications for NCs that have never been built, making inspections more difficult. A source submitted an application for a new permit before the Cleaner Air Oregon rules were adopted and never constructed. DEQ can only speculate that the timing of this application was to avoid CAO requirements.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 16

Suggested Change #84: Do not require more complex permit for sources

Description: OAR 340-216-0020(2), 0025(7), 0056(2) and 0060(E)

If a source otherwise qualifies for a General or Basic Permit, DEQ should not have the authority, based on undefined and subjective criteria, to decide a source needs a Simple or Standard Permit. DEQ has failed to justify why these revisions are necessary or how these revisions address any of proposed purposes for the rulemaking.

Response: Some sources that qualify for General or Basic ACDPs, and even unpermitted sources, have had compliance issues that require extensive work by DEQ staff. In those cases, DEQ will put sources on a source

specific permit in order to provide an appropriate level of oversight. The criteria for putting a source on any permit is included in the current rules and will continue to be used.

Pursuant to ORS 468.070, DEQ has the authority to "refuse to issue, modify, suspend, revoke or refuse to renew any permit issued" based on an array of criteria regarding compliance, violations, and others. In any instance in which there has been noncompliance, DEQ may revoke the Basic or General ACDP; in these cases the source would be required to obtain a source specific permit, make changes such that an air permit is not required, or continue operating without a permit and become subject to enforcement. DEQ believes that it is important to establish this legislatively-provided authority more clearly in the rules.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 16

Suggested Change #85: General support of Neighbors for Clean Air and Beyond Toxics Comments

Description:

Response:

Response Type: no agency action required

Comment IDs linked to this Suggested Change: 5

Suggested Change #86: Clarify NC rules

Description: Clarity of NOC rules (OAR 340-210-0205)

The proposed language in OAR 340-210-0205 would benefit from edits to enhance its clarity. OAR 340-210-0205(1) states that the NOC requirements “apply to the following.” Then, -205(1)(a) and (1)(b) break out applicability by new sources and existing sources. Our

concern is that while -205(b) says that the rule applies to existing sources “undertaking any of the following [subsections below]” that statement does not identify projects that could be undertaken without DEQ approval. Therefore, we suggest that the rule language be revised so that one can read the rules and have a clear sense of what DEQ intends for existing source NOC triggers in -0205.

We also repeat the comment above that the flow through the proposed language in this section does not read clearly and would benefit from revision. This includes a disconnect between the proposed language in -205(1)(b)(B) saying that sources must notify DEQ in writing as opposed to stating that a triggering source must undergo the NOC process.

Response: DEQ agrees that the proposed language can be clarified. OAR 340-210-0205 now specifically refers to 'owners and operators' as opposed to sources. DEQ revised the language in -0205 to avoid 'back and forth'

between affirmative and negatives regarding applicability of the rules. DEQ also revised the language regarding 'notification in writing' to specify that a notice of construction application is required.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #87: Do not raise fees for industry

Description: DEQ's Fee Analysis states that "This rulemaking does not involve new fees." That statement is both deceptive and flatly wrong. DEQ's proposal will shift large numbers of Type 1 NOCs into Type 2 NOCs and a likely larger number of Type 2 NOCs into Type 3 NOCs. Those shifts will have a tremendous fiscal impact on regulated sources that is not addressed in the rulemaking package. Until recently, DEQ did not charge for reviewing Type 1 or Type 2 NOCs. When DEQ did impose a fee of $720 for Type 2 NOCs, the regulated community did not object. However, in the current proposal, DEQ will shift a large number of source activities that previously required Type 2 NOCs to requiring Type 3 NOCs. The minimum fee applicable to a Type 3 NOC is $9,000 plus an additional $9,000 modeling review fee plus a first annual fee for new permittees of at least $3,917. Thus, DEQ has actually proposed to increase the fee for an existing source completing an activity that previously would trigger Type 2 NOC review but now would require a Type 3 NOC by a minimum of $17,280, or 2,500 percent. If that source opts for a Construction ACDP, the combined fee increase would be $22,680. This equates to a 3,250 percent increase in the cost of obtaining authority to install a new or replacement 29 MMBtu/hr natural gas-fired boiler. This is in addition to the extra year or more that DEQ would be adding to the approval process for that source. This sort of a change is extreme and imprudent at any time, but particularly where industry is fighting rising interest rates, sagging demand, high interest rates, severe supply chain issues, and challenges finding employees.

Response: The Type 2 NC fee ($720) and the permit fees for modification are existing fees in OAR 340-216-8020, not new fees. DEQ stated in the public notice that the proposed rules may have a negative impact on sources that are required to perform air quality modeling and install pollution control equipment.

DEQ decided to propose the Minor New Source Review program in a future rulemaking. EPA is currently reviewing existing Minor New Source Review programs across the country to identify best practices to strengthen the effectiveness of state Minor New Source Review programs. DEQ will work closely with EPA to ensure that Oregon's proposed Minor New Source Review program will meet EPA's requirements.

The future rulemaking also provides DEQ time to address staffing shortages and training needs for new staff. DEQ is committed to Environmental Justice and developing a Minor New Source Review program to require further emission reductions in communities that are underserved and overburdened with a disproportionate impact from air pollution. With the delayed proposal of the Minor New Source Review program, there will be no change in the type of NC application that a source must submit for construction under the proposed rules and the costs associated with that proposed program will not occur.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #88: Do not restart the 60-day clock for Type 2 NCs

Description: 60 day approval clock of Type 2 changes (OAR 340-210-0240(1)(b))

The Coalition believes that the proposed changes to OAR 340-210-0240(1)(b) should clarify that if additional information is requested by DEQ in response to a Type 2 NOC, that only pauses the 60-day clock and does not restart it. ORS 468A.055(4) establishes that if the Department does not act on an NOC application within 60 days, the source may proceed with construction consistent with the application. The proposed revisions to OAR 340-210-0240(1)(b) generally are consistent with the statute. However, if additional information is requested to evaluate the application, ORS 468A.055 mandates that the 60-day clock be tolled and restarted where it left off upon the source's submittal of the requested information. Any other approach would render the statutory protection of ORS 468A.055 meaningless.

Response: ORS 468A.055 Notice prior to construction of new sources states:

(4) If within 60 days of the receipt of plans, specifications or any subsequently requested revisions or corrections to the plans and specifications or any other information required pursuant to this section, the commission fails to issue an order, the failure shall be considered a determination that the construction may proceed except where prohibited by federal law. The construction must comply with the plans, specifications and any corrections or revisions thereto or other information, if any, previously submitted.

The 60 days of receipt applies to "receipt of plans, specifications" and also to "any subsequently requested revisions or corrections to the plans and specifications." The statute does not state that the 60-day clock be restarted where it left off upon the source's submittal of the requested information, but rather that the agency has 60 days to review the newly submitted information, revisions, or corrections.

DEQ staff always prioritize construction approvals before other work in order to not delay construction. It is DEQ's policy for staff to review all construction notices promptly upon receipt and to subsequently request information or process them as soon as possible. DEQ staff will not wait until the 59th day to request more information in order to delay construction.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 19, 20

Suggested Change #89: Do not require anticipated dates of construction or completion for NCs

Description: NOC application requirements are excessive (OAR 340-210-0230)

The Coalition is concerned that the proposed additions to the OAR 340-210-0230(1) NOC application requirements are excessive, unrealistic, and unnecessary. For example, the proposed OAR 340-210-0230(1)(p) requires that in order for a Type 1 or Type 2 NOC application to be deemed complete, the source must provide "Dates on which construction contracts are signed, equipment is ordered, and the owner or operator has committed, or will commit to initiating construction activities." This requirement is illogical as it requires

information that the source often cannot know at the NOC application stage. The NOC process exists to provide preconstruction review. Until the project has been approved by DEQ, sources are often prohibited by internal processes, for sound business reasons, from signing construction contracts or ordering equipment. Likewise, without a definite period for the DEQ review process, a source cannot state with any certainty the date on which construction will be initiated (as proposed OAR 340-210-0230(1)(q) would require). Similarly, a source cannot state with any certainty at the application stage when it anticipates that construction will be completed (as required by the proposed OAR 340-210-0230(1)(r)). Given the proposed change under OAR 340-210-0240(4) to require that construction be completed "within 18 months of the anticipated date of construction completion included in the application," the date identified in the application has serious regulatory consequences to a source. We strongly urge the Department to remove the proposed additions to the NOC application requirements in 340-210-0230(p), (q) and (r) as they are not information that can be provided or, as a matter of fairness, should be required prior to DEQ's completion of the construction review process.

Response: Dates on which construction contracts are signed, equipment is ordered, and the owner or operator has committed, or will commit to initiating construction activities, are already required in forms AQ Notice of Intent to Construct for ACDP sources and MD901 Notice of (Construction/Modification) Approval Application for Title V sources. These dates have been a part of Notice of Intent to Construct and MD901 Notice of Approval processes. There is no applicable requirement which would establish a violation for submitting an estimated date of construction completion that ended up being inaccurate. DEQ understands that construction can be delayed or sped up due to a variety of factors, both in and out of the owner/operator's control. The construction timeline provides DEQ information on project implementation, not something to be used as a potential violation regarding a facility's construction activities.

If a source has already signed contracts and is 'committed' to construction, this information can be readily provided. In any instance where a source cannot 'commit' to construction before receiving DEQ's approval, the source is expected to provide an estimate of the date on which this is likely to occur.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #90: Clarify PSEL applicability for pollutants

Description: Clarity of proposed PSEL provisions (e.g., 340-216-0025(6)(B)(b))

The Coalition believes that certain proposed revisions to the rules that reference PSELs need to be changed to avoid significant confusion over the scope of the PSEL program. As specified in OAR 340-222-0020(1), PSELs only apply to those pollutants listed in the definition of "Significant Emission Rate." As reiterated later in the PSEL rule, PSELs are not imposed for hazardous air pollutants, accidental release pollutants, or toxic air pollutants. OAR 340-222-0020(3)(c). However, there are multiple places in the draft rules where new language is being proposed stating that PSELs are required "for all regulated air pollutants." See, e.g., OAR 340-216-0025(6)(B)(b). This language should be revised to avoid contradicting the existing rules and established policy that PSELs are only required for pollutants listed in the definition of "Significant Emission Rate" at OAR 340-200-0020.

Response:

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #91: Do not require more detail in permit applications

Description: New air permit application requirements (OAR 340-216-0040(1)(a))

The Coalition is concerned by the changes proposed to the new permit application requirements. Specifically, DEQ is proposing to revise OAR 340-216-0040(1)(a)(E) to require a plot plan showing "the location and height of all devices and activities, including any pollution control devices." We can understand the possible utility to DEQ to know the location and height of buildings and stacks. But, there is no reason to require applicants to show the precise location within a building of each piece of equipment and the height of that piece of equipment situated within a building. We suggest that this requirement be corrected to match the information needed and not the unnecessary information it is requiring.

Similarly, we suggest that DEQ re-examine the proposed changes to OAR 340-216-0040(1)(a)(F) and (G) which include requiring that the make and model of every device, activity and air pollution control device be included in an application. The precise make and model of every device is frequently not known at the time that the application is submitted. Given the tremendous time delays associated with air permitting in Oregon, it is typical for sources to submit applications before all such details are determined. In fact, sources are often required to do so as the permitting process itself dictates what model of equipment is required. By revising the existing rules in the manner proposed, DEQ is making it so that an application that did not have a make and model for every device would be rejected as incomplete. Such specificity is difficult and contradicts the intent of the review process. Therefore, we request that the final rules not require this information as a necessary element in order for an application to be deemed complete.

Response: DEQ agrees that only the location and height of all emissions units, devices and activities, and pollution control devices that emit to the atmosphere are needed.

Existing rules (OAR 340-216-0040(4)) require an owner/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." This rule would allow a source to submit an application and, upon becoming aware of the specific make, model, etc. supplement the permit application.

DEQ does not agree with the commenter than this information is not needed.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #92: Revise the proposed changes to the excess emissions rule

Description: Unplanned upset provisions (OAR 340-214-0330)

The Coalition has significant concerns about the proposed changes to the "All Other Excess Emissions" language in Division 214. This particular provision addresses unanticipated process upsets that result in excess emissions from events other than planned startups or shutdowns or as the result of scheduled maintenance. Because of the limited scope of -0330, it is not possible to anticipate in advance what the incident is that will result in the excess emissions. Therefore, we do not believe that it is practical or appropriate to require, as a condition of continued operation, that a source have "an emission minimization plan approved in writing by DEQ prior to the occurrence of the excess emission event." Yet this is what is being proposed in OAR 340-214-0330(2)(a)(C). We recognize the merit of preparing an emission minimization plan if a facility desires to continue operating during an excess emission period. If the excess emissions can be minimized through measures identified after the event has commenced, the Department should not be prevented from allowing the source to continue to operate. However, the proposed language would have this effect simply because the minimization plan was not (and could not have been) approved in advance. This makes no sense and will result in sources necessarily developing vague minimization procedures as it is impossible to predict what specific excess emission event will occur in advance of it occurring.

The Coalition also believes that the proposed revisions to OAR 340-214-0330(2)(a) should include language stating that immediate shutdown is not required if the emissions associated with shutdown and the subsequent startup will exceed those resulting from continued operation. The need for this language is demonstrated through a practical example. If a hog fuel boiler with a 2-field electrostatic precipitator (ESP) loses one field, it is likely going to have excess emissions. However, shutting down the hog fuel boiler during the hours necessary for repair will result in a cold start of the boiler. During the shutdown and subsequent cold start, the ESP cannot safely operate at all and so hours of completely uncontrolled emissions will occur. Were the boiler to keep operating with the one field in the ESP controlling particulate, significantly less emissions would result than if the boiler went through a shutdown and subsequent cold start. Such situations occur with many different types of controls that require the controlled device to come up to temperature and stabilize before the controls are effective (e.g., SNCR). The rules should provide that a source can keep operating in the event of an upset resulting in excess emissions if it can demonstrate to the Department that fewer emissions will result from continued operation than from shutting down and restarting.

We appreciate the Department proposing to add consideration of whether emissions from shutdown and startup would be greater than the emissions likely to result from delay of repair, but we are concerned that this misses the mark. The proposed language is only relevant to the Department's review of minimization plans submitted in advance of an upset. Most upsets are not anticipated. Therefore, this language does not aid a source that has an unanticipated upset. Also, the language speaks of delay of repair and fails to note that many repairs can be made while the underlying equipment is operating. So, while we support the proposed addition to OAR 340-214-0330(2)(c), we request that language balancing emissions from startup and shutdown also be included in the proposed edits to 340-214-0330(2)(a). The Coalition continues to believe that considering whether immediate shutdown and repair would result in higher emissions is an appropriate and necessary response to excess emission conditions, regardless of whether an upset was evaluated and responsive actions approved by DEQ in advance of the event.

Response:

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #93: Do not change non-categorical RACT rules

Description: Non-Categorical RACT Requirements (OAR 340-232-0040)

The Coalition is concerned that the Department is proposing to change the non-categorical RACT requirements without the benefit of discussion without any demonstration of need. The non-categorical RACT requirements apply to sources not covered by a categorical RACT standard and that have pre-control VOC potential to emit of 100 tons per year or more. DEQ has proposed two changes that we believe are not appropriate.

First, DEQ is proposing to remove the reference to potential to emit and replace it with language requiring evaluation of emissions if the source operates at maximum capacity for 8,760 hours per year. However, experience implementing the program shows that some sources are physically incapable of operating 8,760 hours per year. The determination of potential to emit should be left to the permit engineer and not be subject to arbitrary requirements imposed by rule. After 44 years of this provision being in the rules, we see no basis for changing it and DEQ has offered none.

Second, the proposed changes to the rule arguably prevent a source from being able to take enforceable limits to reduce the pre-control potential to emit VOC to less than 100 tons per year. Such limits are a well-established means of reducing potential to emit and have previously been used by DEQ to assess applicability of OAR 340-232-0040. Changing that approach now would reverse decades of precedent without any reasonable policy basis. Where an enforceable mechanism has been established to reduce emissions below the non-categorical RACT threshold, that mechanism should be recognized and respected. For these reasons we strongly urge DEQ to not make the proposed changes to OAR 340-232-0040.

Response: DEQ does not explicitly discuss every proposed rule change with a Rules Advisory Committee. For proposed changes that were not reviewed by the RAC members during RAC meetings, the public notice provides an adequate avenue for any interested party to provide comment.

DEQ is proposing clarification to the Non-Categorical RACT Requirements in OAR 340-232-0040 because of confusion and inconsistent implementation of this rule over the years. In the past, DEQ has allowed the PSEL to limit potential to emit in some, but not all cases. In one case where a source had a pollution control device installed, DEQ did not allow the PSEL to limit potential to emit. These determinations should not be left to individual permit engineers but should be clearly delineated in the rules. Therefore, in order to clarify the rules and ensure consistency, DEQ is proposing to require evaluation of emissions if the source operates at maximum capacity for 8,760 hours per year without a pollution control device or limits on hours of operation. This approach is identical to how the Kansas Department of Health and Environment and the Ohio Environmental Protection Agency implement their RACT rules.

Further, DEQ staff wrote the 1994 VOC Compliance and Assurance Manual that was not adopted by reference into the Oregon Administrative Rules and therefore is not controlling. However, the intent on how the RACT rules should be implemented is very clear: "Potential to Emit is based on 8,760 hours of operation per year at design or maximum capacity, without considering control devices."

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #94: Do not change the definition of capital expenditure

Description: NSPS capital expenditure definition (OAR 340-238-0040)

DEQ is proposing to revise the definition of "capital expenditure" in a manner that would make the definition unworkable. The state and federal definition of "capital expenditure" under the NSPS program has always turned on whether there is an expenditure that exceeds the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service ("IRS") Publication 534. DEQ is proposing to change the word "latest" to "November 2016." While we would normally support the greater specificity that we are sure underlies this suggested edit, the proposed change should not be made. This is because at some point after the NSPS program definition of "capital expenditure" was adopted, the IRS replaced Publication 534 with a different document that does not include annual asset guideline repair allowance percentages. If you look at the November 2016 version of Publication 534, you will not find this term used anywhere in the document. As EPA has explained in various determination letters:

It is worth noting that the latest version of IRS Publication 534 that contains is the December 1984 edition. The IRS no longer publishes these guideline repair allowances in its Publication 534. Therefore, EPA recommends the use of the December 1984 edition for this purpose and will not construe the phrase "latest edition" in the definition of capital expenditure to refer to more recent versions of the publication. EPA Applicability Determination Index No. 9900074 (April 7, 1998).

As recognized by EPA, in order to retain reference to the correct IRS Publication 534, the Oregon rules should specify the December 1984 IRS Publication 534. Referencing the November 2016 version of the document will result in the definition becoming unusable and make the state NSPS program inconsistent with the federal NSPS program in a significant respect.

Response: DEQ agrees that EPA's previous determination has been that the 'latest edition of' should mean the December 1984 version of IRS publication 534 and that the proposed language including the November 2016 version would create unintended issues with implementation of adopted NSPS regulations. DEQ has changed the proposed rules to refer to the December 1984 version of IRS publication 534 regarding the definition of 'capital expenditure'.

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #95: Do not change the definition of greenhouse gases

Description: Change in definition of "Greenhouse Gases" (OAR 340-200-0020(72))

The Coalition is concerned with the proposed change in definition of "greenhouse gases" in OAR 340-200-0020(72)(a). The proposed changes to the definition would delegate the authority to determine what constitutes a greenhouse gas in Oregon to EPA. This is neither appropriate nor legal. There is well established case law that it is a violation of the Oregon Constitution for an agency to prospectively adopt changes to federal rules. As proposed, the definition of "greenhouse gases" would run afoul of this constitutional prohibition. We recommend

that DEQ not revise the “greenhouse gas” definition in OAR 340-200-0020(72)(a) as doing so will call into question years of permitting based on the current definition.

Response: The proposed change to the definition of "greenhouse gases" will make the division 200 definition the same as the division 215 (Oregon Greenhouse Gas Reporting Program) definition in OAR 340-215-0020, eliminating confusion and furthering the goal of greater consistency.

DEQ disagrees with the commenter that the proposed language is 'prospectively adopting changes to federal rules' in an unconstitutional manner. While the definition of Greenhouse Gas is proposed to refer to 40 C.F.R. part 98, 'C.F.R.' is specifically defined as well. As of the September 2022, 'C.F.R.' means "means Code of Federal Regulations and, unless otherwise expressly identified, refers to the July 1, 2020 edition." (OAR 340-200-0035(1)) Thus a federal change to 40 C.F.R. part 98 would not change what is adopted as Oregon rule by default; this requires EQC action to update the definition of C.F.R.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #96: Do not change the definition of significant emission rate

Description: Change to definition of “Significant Emission Rate” (OAR 340200-0020(162))

The Coalition is concerned that DEQ is making a significant change to the definition of “significant Emission Rate” or “SER” without adequate process, explanation or policy basis. Significant emission rates are used in many manners in the regulations, including determining the type of NOC a facility is required to submit. SERs are established for some of the regulated pollutants, but not for the majority of them. OAR 340-200-0020(162)(v) enables DEQ to determine an SER where one is not listed. DEQ is proposing to simply set the SER at “zero” for any pollutant not listed. The proposed approach does not make good policy sense as Oregon has myriad regulated air pollutants for which SERs have not been established and it is critical that DEQ have the ability to determine an SER for such a pollutant if necessary to do so as part of a permitting action. Automatically and irrevocably setting SERs to “zero” for these pollutants is an abdication of DEQ’s permitting responsibilities. For this reason, we request that DEQ drop this proposed revision.

Response: The proposed change to the definition of "significant emission rate" is required by EPA.

Including DEQ discretion for establishing an SER other than zero for a pollutant not listed is inconsistent with DEQ's State Implementation Plan. Generally speaking, a SIP may not include a regulatory provision that authorizes a state official to grant exemptions or variances from otherwise applicable SIP requirements. DEQ retains the authority to exercise enforcement discretion regarding any violation, but may not include this level of discretion in the SIP.

Response Type: no, we did not make changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #97: Do not change the definition of VOC by removing the tert butyl acetate exemption

Description: Removal of tert butyl acetate exemption status (OAR 340-200-0020(191))

The Coalition is concerned that DEQ is reversing a longstanding determination as to the exempt status of tert butyl acetate without undergoing any appropriate analysis. The current definition of VOC in OAR 340-200-0020(191) exempts tert butyl acetate for the purposes of VOC emissions limitations and VOC content requirements, while leaving this chemical regulated as a VOC for other purposes. DEQ is proposing to change that regulatory status without explanation or technical justification. We do not believe that this is merited or proper and request that DEQ not change the definition of VOC as it relates to tert butyl acetate without adequate analysis and process—neither of which appear to have occurred in the context of this rulemaking.

Response: On February 25, 2016 - EPA amended its regulatory definition of volatile organic compounds under the Clean Air Act. The regulatory definition of VOC currently excludes t-butyl acetate (also known as tertiary butyl acetate or TBAC; CAS Number: 540-88-5) for purposes of VOC emissions limitations or VOC content requirements on the basis that it makes a negligible contribution to tropospheric ozone formation. However, the current definition includes TBAC as a VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC.

The EPA action removes the recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements related to the use of TBAC as a VOC. The proposed rules remove TBAC from the definition of VOC, which is intended to align DEQ's rules with the federal definition of VOC. DEQ has added t-butyl acetate to the existing list of compounds with negligible photochemical reactivity at OAR 340-200-0020(192)(a).

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #98: Do not clarify Kraft pulp mill rules

Description: Clarification of Kraft pulp mill rules (OAR 340-234-0210)

The Coalition appreciates the intent of the clarifications being proposed to the Kraft pulp mill rules in Division 234. However, we believe that the edits proposed in relation to the TRS requirements may add less clarity rather than more. Specifically, we have two concerns. First, the addition of the words “either or both” before several of the dual limits is confusing. The current regulatory language plainly states that, for example, TRS emissions from a recovery furnace predating 1969 “may not exceed 10 ppm and 0.15 Kg/metric ton (0.30 pound/ton) of production as daily arithmetic averages.” That language clearly imposes a concentration and a mass limit and there is no question that both limits apply. Adding the words “either or both” before the limits dilutes that clarity. We are even more concerned about the proposed deletion of the words “as a daily arithmetic average” after the concentration limit applicable to lime kilns. As proposed, the clearest read of the rule would be that the 20 ppm limit is being changed to an instantaneous limit and only the mass-based limit is monitored on a daily arithmetic average basis. We do not believe that this was DEQ’s intent and so we suggest that the proposed deletion of “as a

daily arithmetic average" from OAR 340-234-0210(1)(b) be dropped in the final rule. The Coalition supports the clarification of recovery boilers being exempt from the opacity standards in Division 208.

Response:

Response Type: yes, we made changes to address this comment

Comment IDs linked to this Suggested Change: 20

Suggested Change #99: Lesser permit for Title V permittee

Description: Is there a method for TV permit holders who no longer meet requirement to have TV permit to be able to obtain lesser permit?

Response: This question is unrelated to this rulemaking. If a facility is no longer subject to Title V requirements, the owner or operator can apply for an Air Contaminant Discharge Permit.

Response Type: no agency action required

Comment IDs linked to this Suggested Change: 23

From: oregon-gov-web-services@egov.com
To: AQPERMITS 2022 * DEQ
Subject: Comment on Air Quality Permitting Updates 2022 Rulemaking
Date: Friday, June 17, 2022 1:57:35 PM
Attachments: formsubmission.csv

First name	David
Last name	Stone
Email address	dns@efn.org
Organization	
Comment	Who has had input into these new rules? “Streamlining the process”. Is this at the behest of those who will be regulated? No more “regulatory capture” - those subject to the rules making the rules? Put real teeth into these rules, so penalties are more than just the cost of doing business. No cozy relationship with those regulated. No education. Real enforcement. No endless negotiation over appeals (ala the Baxter case) that continue while the community continues to suffer. Dave Stone

Submission ID: 3977c2de-29ab-4392-b866-7bc0f1ef7430

Record ID: 1661

LRAPA Comments on DEQ Draft Air Quality Permitting Updates 2022

DEQ has proposed elimination of "modification" from the Notice of Intent to Construct rules because the definition of "construction" already includes "modification."

LRAPA suggests that DEQ reconsider removing the word "modification" from the Notice of Intent to Construct rules. "Construction" as listed in the proposed rulemaking is defined as:

> "Construction":
> (a) Except as provided in subsection (b) means *any physical change* including, but not limited to, fabrication, erection, installation, demolition, replacement, or modification of a source or part of a source;
> (b) As used in OAR chapter 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. [Italics added for emphasis]

This definition appears to preclude the full definition of "modification". "Modification" as listed in the proposed rulemaking is defined as:

> "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 o*f, 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…[Italics added for emphasis]

Based on these definitions, the removal of the word modification could be interpreted to subject only physical changes at sources not subject to NSR to the rules under OAR chapter 340, division 210 and exclude a change in the method of operation. LRAPA is suggesting that DEQ consider adding back in "and modification" wherever the word "construction" is used in OAR chapter 340, division 210 and other divisions, as appropriate. Alternately, DEQ could add a second clause to paragraph (a) of the definition of construction that includes the language concerning a change in the method of operation.

DEQ wording changes in Visible Emissions and Nuisance Requirements under OAR chapter 340, division 208

DEQ is proposing a number of formatting changes to regulations governing visible emissions and nuisance requirements. Many of these regulations apply based on a specific time frame for when a source was installed, constructed or modified. As an example:

> (b~~5~~) For wood-fired boilers installed, constructed or modified ~~prior to~~ *on or after* June 1, 1970 but before April 16, 2015 *and not modified after that date*, ~~no person may emit or allow to be emitted any visible emissions that equal or exceed:~~

The use of the phrase "not modified after that date" in the proposed rulemaking is unnecessarily complicated and could be better accomplished by using the words "last modified" as shown below:

> (b~~5~~) For wood-fired boilers installed, constructed or **last modified** ~~prior to~~ *on or after* June 1, 1970 but before April 16, 2015 ~~*and not modified after that date*~~, ~~no person may emit or allow to be emitted any visible emissions that equal or exceed:~~

This proposed change affects OAR 340-208-0110(3)(b) and (c), OAR 340-208-0610(1), OAR 340-208-0110(3)(b) and (c), and OAR 340-208-0610(1).

DEQ changes to OAR 340-210-0225

The stationary internal combustion engine exemption includes engines having a rated capacity of less than 60 horsepower output. DEQ should consider adding a higher exemption threshold for emergency stationary internal combustion engines using their experience with approvals for emergency stationary internal combustion engines at cellular communication facilities. LRAPA suggests an exemption of 100 horsepower or 60 kilowatts of electrical output for such sources.

DEQ is proposing an exemption for plasma- or laser-cutting operations using a water table. A single plasma and laser-cutting operations can have potential nitrogen oxide emissions above de minimis depending on the cutting technology and material being cut, even with a water table. DEQ should consider removing or restricting this exemption.

DEQ changes to OAR 340-210-0230

DEQ proposes to require any person proposing construction that requires a change in the primary two-digit SIC/NAICS code for a source or the addition of a new SIC/NAICS code to submit a Type 3 notification. DEQ should consider the ramifications of this proposal and the location of the language in the proposed rulemaking. The original intention of the use of SIC code was for the determination of whether a physical location containing multiple related business entities constituted a single source for air quality permitting. As discussed in the introduction to the 1987 Standard Industrial Classification Manual, each establishment is to be classified according to its primary activity – not multiple secondary activities. DEQ has attempted to adapt SIC and NAICS codes as a tool for determining whether a modification triggers a permitting action. Requiring a Type 3 change for any addition of a source that may be considered to be subject to a new SIC/NAICS code may lead to unintended consequences. As an example, based on past DEQ permitting history, the addition of a boiler for building heat to a facility that had never had a boiler previously would require a Type 3 notification because DEQ has historically used SIC code 4961 to represent boilers regardless of the primary SIC code of the facility. At the very least, DEQ should consider moving this language to OAR 340-210-0225(3) as a change that would require a Type 3 notification.

DEQ changes to OAR 340-210-0240

DEQ proposes to include a requirement to commence construction within 18 months of approval, or other date approved in writing by DEQ. DEQ also proposes to terminate construction approval for a number of listed reasons, including construction not commencing within the approved timeframe, construction discontinuing for a period of 18 months or more; or construction not completing within 18 months of the anticipated date of construction completion in the application. The language requiring the submittal of request to extend the construction commencement deadline or the construction completion date uses ambiguous language. The proposed rule OAR 340-210-0240(4)(b) is:

> (b) The owner or operator may submit a request to extend the construction commencement deadline or the construction completion date by submitting a written, detailed explanation of why the source could not commence or complete construction within the initial 18-month period. DEQ may grant for good cause one 18-month construction approval extension.

The proposed language requires the submission of a written, detailed explanation of why the source could not commence or complete construction with the initial 18-month period. The initial 18-month period only apples to the commencement construction deadline. The construction completion date would not necessarily occur during the first 18 months. In addition, the granting for good cause of one 18-month construction approval extension applies only to the initial construction approval and not the construction completion date provided in the application. LRAPA suggests DEQ clarify rule language related to the complete construction date.

DEQ changes to OAR 340-216-0040

Proposed language in OAR 340-216-0040(1)(a)(O) requires that the applicant submit "any information required by OAR chapter 340, divisions 222, 224, 225, 226, and 245, including but not limited to control technology and analysis, and air quality analysis, conducted in accordance with the procedures in OAR chapter 340, division 225, demonstrating that the source's emissions will not cause or contribute to an exceedance or violation of an ambient air quality standard adopted under OAR chapter 340, division 202; and information related to offsets and net air quality benefit, if applicable;". LRAPA suggests removing the language "demonstrating that the source's emissions will not cause or contribute to an exceedance or violation of an ambient air quality standard adopted under OAR chapter 340, division 202". This language could be interpreted to exclude the requirement to demonstrate compliance with PSD increments for sources that may be subject to such a requirement. Alternatively, DEQ could add language referencing PSD increment to this section. As a general question, does the use of this language preclude DEQ from determining whether a minor source is in compliance with PSD increment?

DEQ changes to OAR 340-216-0060

DEQ is proposing to set PSELs for General Air Contaminant Discharger Permits at the "capacity" for the largest emitting sources in the source category in the state for all regulated pollutants other than toxic air contaminants that are emitted at more than the de minimis emission level under OAR 340-21-0060(1)(b)(B). How will the largest emitting source in the source category be determined? All criteria pollutants combined or the largest single criteria pollutant emitted?

The use of capacity may not reflect the intent of the Notice of Proposed Rulemaking which states that "Permitting at capacity or potential to emit instead of Generic PSELs creates permits that more accurately reflect actual emissions, providing more transparency for communities." First, the preamble language states that PSELs for General ACDPs will be set at capacity or PTE, which is in conflict with the actual rule. Second, if all sources in a general permit category are using controls to reduce emissions of a given regulated pollutant or the permit itself contains enforceable limitations on capacity, will DEQ still use capacity to set the General ACDP limit for that pollutant? LRAPA suggests that the PSEL for regulated pollutants for General Air Contaminant Discharge Permits be set at the "potential to emit" or "PTE" for the largest emitting source in the source category in the state for all regulated pollutants. The definition of PTE in OAR 340-200 is based on the lesser of the capacity or the maximum allowable regulated pollutant emissions taking into consideration any physical or operational limitations. Has DEQ considered the ramifications of the construction of a new source in whose emissions exceed the General ACDP PSELs because it was not considered in the source category to set the General ACDP PSELs? Will the General ACDP PSELs be adjustable at renewal of the General ACDP? How and/or will the HAP PSELs be set for General ACDPs?

DEQ changes to OAR 340-216-0082

Similar to the comment related to changes to OAR 340-210-0240, the language requiring the submittal of the request to extend the construction commencement deadline or the construction completion date uses ambiguous language under proposed rule OAR 340-216-0082(2)(e)(B). The proposed language requires the submission of a written, detailed explanation of why the source could not commence or complete construction with the initial 18-month period. The initial 18-month period only apples to the commencement construction deadline. The construction completion date would not necessarily occur during the first 18 months. In addition, the granting for good cause of one 18-month construction approval extension applies only to the initial construction approval and not the construction completion date provided in the application. LRAPA suggests DEQ clarify this language as applicable to the complete construction date.

DEQ changes to Part B: General, Simple or Standard ACDP list

DEQ proposes to add the word "aggregate" to Category 13. The proposed language reads:

> "Aggregated boilers and other fuel burning equipment over 10 MMBTU/hour heat input, except exclusively Natural Gas and Propane fired units (with or without #2 diesel backup) under 30 MMBTU/hour heat input."

The addition of the word "aggregate" appears to be an attempt to clarify that the 10 MMBTU/hour heat input threshold applies to the aggregate of the heat input ratings of all boilers and other fuel burning equipment at a source. However the exclusion related to natural gas and propane fired units confuses the applicability. Are natural gas and propane fired units completely ignored if each natural gas or propane fired unit is individually below 30 MMBTU/hour heat input? DEQ should clarify Category 13.

Note that the Notice of Proposed Rulemaking includes a version of division 216, Table 1 that does not include the B.90 and C.8 categories that currently exist for landfills subject to division 239.

Is it possible for DEQ to include a permit modification fee that is somewhere in between the existing Simple Tech Mod and Moderate Tech Mod, or does that require legislative approval? It would be nice not to have such a drastic jump in mod fees. Same for division 220.

DEQ Changes to Division 220 – Title V Fees

Emission fees are assessed on all regulated pollutants except as specified in OAR 340-220-0070 - Exclusions. The only regulated pollutant that is specifically excluded is CO. However, the DEQ Invoicing IMD states that emission fees are paid for four pollutants: PM10, NOx, SO2, and VOC. Division 200 definition 135(b) for "regulated pollutant" refers to the four assessable emission pollutants but specifies "particulate matter" in lieu of PM10 as specified in the IMD. Should DEQ clarify in the division 220 rules that those are the only four regulated pollutants for which emissions fees are assessed? See also comment on division 222 below.

DEQ Changes to Division 222 – PSELs

OAR 340-222-0060 PSELs for HAPs: Since HAPs are not assessed for Title V emission fees should 340-222-0060(1)(a) be deleted?

Should the 222-0060 HAP PSEL rule also reference 222-0041- Annual PSEL since that rule refers to "all regulated pollutants emitted at more than the de minimis emission level", in terms of setting the level? The revised language of setting the HAP PSEL at "the level the permittee establishes necessary for the source" leaves it open to interpretation that the HAP PSEL can be set at 9 and 24 tpy for single and total HAPs, respectively – or essentially a status quo on the use of generic PSELs for HAPs.

DEQ addition of OAR 340-224-0300 Minor New Source Review

Under the proposed rule, Minor NSR applies to any application for a Type 3 change for which individual devices or activities will have uncontrolled PTE at or above a minor source SER or any application for a permit or permit modification under OAR 340-216 where any individual device or activity will have uncontrolled PTE at or above a minor source SER. Minor NSR clearly applies to any devices or activities that are part of the Type 3 change or part of an application for a new permit. It is unclear which devices or activities will be subject to Minor NSR for a permit modification. DEQ should clarify the language regarding which individual device or activities are subject to Minor NSR for a permit modification. DEQ should also clarify whether a renewal with no modification would trigger Minor NSR. An application for a permit could also be considered a renewal application.

Under the Presumptive Minor Source Emission Reduction Technology, DEQ has included "(c) Low NOx burners for NOx control from combustion sources where the removal efficiency is 74% or greater;" The use of a removal efficiency for a low NOx burner has no meaning as low NOx burners do not "remove" NOx, they inhibit the formation of NOx relative to a conventional burner. DEQ should consider defining low NOx burner in terms of an emission limit in parts per million by volume of NOx at a selected oxygen concentration or pounds of NOx per million Btu heat input.

Under the Presumptive Minor Source Emission Reduction Technology, DEQ has included "(g) Combustion of ultra-low sulfur diesel with a sulfur content below 15 parts per million, renewable diesel or natural gas for SO2 control." Ultra-low sulfur diesel is defined as a maximum sulfur content of 15 parts per million under 40 CFR 1090.305. LRAPA suggests the language be changed to "sulfur content of no more than 15 parts per million".

Other Comments:

- Table 1 in Notice of Proposed Rulemaking (NPR) lists LNBs, LECs, and ULSD as control devices. Should these be added to the definition in division 200?
- For future versions of the %BIPOC on page 45 of the NPR, could there please be a note added that mentions DEQ did not include Lane County sources on the map?
- Division 200 definition of MSER contains a typo for the amount of SO2 in option two. It currently lists it as 510 tpy.
- Does DEQ want to add a definition for Minor New Source Review similar to the definition of Major New Source Review?
- Division 200 definitions 105, 106 and 107: Should the words operating permit be capitalized? They are capitalized as used in division 218 (i.e., that division uses the term "Oregon Title V Operating Permit").
- Division 200 definition 112: Should the definition of permit also reference open burning letter permits under 264-0180?
- OAR 340-210-0240(1)(a) last sentence refers to a "Type 1 NC". Suggest changing that to "Type 1 change" and/or defining NC as an acronym in division 200.
- OAR 340-216-0025: suggest changing the title of the rule to Types of ACDPs or Types of Air Contaminant Discharge Permits since there are also Title V Operating Permits and open burning letter permits in the AQ rules.
- OAR 340-216-0025(6)(a)(A): would it help clarify that Part C sources must obtain a Standard ACDP or hold a Title V Operating Permit, as applicable?
- OAR 340-216-0040(1)(a)(M): suggest introducing the LUCS acronym here after the term is first used in division 216.
- OAR 340-216-0025(2): Suggest changing from Renewal Permits to Permit Renewals or ACDP Renewals.
- OAR 340-216-0060: Should DEQ remove General ACDP types from the list for which DEQ has chosen not to renew such as the wood preservers and hard chrome platers?
- OAR 340-216-0082: Suggest changing the title of the rule to Expiration, Termination, *Reinstatement,* or Revocation of an ACDP
- OAR 340-218-0020(4)(a): Suggest consistent use of the term Oregon Title V Operating Permit in lieu of Title V permit.
- OAR 340-218-0040(1)(a)(B): Would it be useful to clarify that commencing operation will be considered initial startup *of the physical change or change in the method of operation*? There are some sources with existing ACDPs that can go to a Title V without any physical change as may be implied in "initial startup".
- OAR 340-218-0080(6)(c)(C): Suggest consistent reference to CFR as done in (7) – 40 C.F.R Part 64.
- OAR 340-222-0042: Does DEQ want to include short term NAAQs compliance as a possible use of Short Term PSELs?
- OAR 340-238-0040(4): Does DEQ want to update the definition to the July 1, 2022 edition or will that be in a separate federal standards rulemaking? Same for the definition in division 244.

9450 SW Commerce Circle, #200
Wilsonville, OR 97070
503-682-3363
www.agc-oregon.org
AGCOreCol

July 29, 2022

Jill Inahara
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232
VIA EMAIL (2022.AQPERMITS@DEQ.OREGON.GOV)

Re: Comments on Oregon Air Quality Permitting Updates 2022

Dear Ms. Inahara:

Associated General Contractors – Oregon Columbia Chapter represents a broad cross-section of the commercial construction industry, including open shop and union, rural and metro, highway and building contractors. While these proposed rules are not specifically targeted at the construction industry, the changes proposed will impact the ability of contractors to perform their work and deliver projects in a timely manner.

As proposed, the rule will impose significant new regulatory burdens on Oregon businesses, driving up the cost and time to obtain permits and approvals from the Department of Environmental Quality ("DEQ"). DEQ's proposed rule will leave Oregon businesses and workers at a competitive disadvantage as compared to sources operating in other states. But DEQ has not provided any substantive analysis of any air pollution problem that would be solved by this proposal.

Representing the commercial construction industry, we have specific concerns about the implications of these changes to the construction process and timeframe. DEQ's proposed rule will transform the majority of projects completed by sources requiring notice to DEQ (i.e., Type 1 and 2 actions) into substantive (Type 3) actions, requiring significant pre-construction analyses and permitting. At present, even though DEQ handles only a few Type 3 permitting actions each year, each one takes typically takes 9-12 months for DEQ to process. DEQ has not explained how it can possibly process the dozens of Type 3 actions that will result from its proposed rule.

This change to the permitting process causes us significant concern, since it will impact the timeline in which our members will be able to complete projects for their clients and customers. The significant delays that we anticipate will significantly slow construction on these types of facilities, resulting in a slowdown to construction in Oregon, and a decrease in ability for our members to deliver the required projects to their customers in a timely manner. Because of these issues, DEQ should retain the existing notice of construction structure.

Another timing concern for construction is the notice requirement for routine maintenance. The proposed rule would, for the first time, require businesses to submit notices of construction for routine maintenance, repair and like-kind replacement projects. Such projects have been exempt from the notice requirements for decades. Making a substantial change to routine projects will slow the timeline to complete these projects, making it difficult for contractors as well as their clients.

In addition to concerns about what these changes will do to construction timelines, we have questions about the actual need for these rule changes. DEQ initially sought to justify its proposal by referencing needing to protect Oregonians from violations of the National Ambient Air Quality Standards ("NAAQS"). DEQ's "Statement of Need" for the rulemaking justifies the rule by saying it "[a]llows [DEQ] more opportunities to review air quality modeling of emission increases…." However, that justification fails to acknowledge that DEQ's own analysis (set forth in an agency-issued memorandum dated March 7, 2022) did not identify any widespread NAAQS compliance problem in Oregon.

Instead, DEQ's analysis concluded that in the vast majority of cases "the results don't indicate there were exceedances of the NAAQS, only that more refined modeling would be required." So, while DEQ's proposed rule will require manufacturers to conduct more expensive modeling and delay construction, DEQ does not expect there to be any real issues identified. We are opposed to changes to a permit process that currently works, when there is not a compelling reason to make the changes in the first place.

We thank you for your consideration of our concerns. We respectfully request that you not move forward with the proposed rules in their current form, given the concerns we have listed above as well as those you are hearing from other business associations.

Best regards,

Kirsten Adams
Director and Counsel – Policy and Public Affairs, AGC Oregon-Columbia Chapter

cc by email:

Richard Whitman (richard.whitman@state.or.us)
Leah Feldon (leah.feldon@state.or.us)
Ali Mirzakhalili (ali.mirzakhalili@state.or.us)

OREGON FOREST & INDUSTRIES COUNCIL
SUSTAINABILITY. SCIENCE. INNOVATION. GROWTH.

PO Box 12826
Salem, Oregon 97309
(503) 371-2942
Fax (503) 371-6223
www.ofic.com

August 1, 2022

Oregon DEQ
Attn: Jill Inahara
700 NE Multnomah St., Suite 600
Portland, OR 97232-4100

Via Email: 2022.AQPermits@DEQ.oregon.gov

RE: Oregon DEQ Proposed Air Quality Permitting Update Rulemaking

Dear Ms. Inahara:

Thank you for the opportunity to provide comment on the Department of Environmental Quality's (DEQ) proposed Air Quality Permitting Updates rulemaking (the "rulemaking"). These comments are being submitted on behalf of Oregon Forest & Industries Council (OFIC), which represents forestland owners and forest products manufacturers from across the state of Oregon. Together, our members provide for themselves, their families and nearly 60,000 other households via direct employment from our lands and manufacturing facilities.

OFIC has been engaged with the present rulemaking primarily through a coalition of manufacturing and business groups, which is being represented by the Stoel Rives law firm. We encourage the agency to review the detailed comments submitted on behalf of that coalition group and consider the changes recommended in those comments carefully. Although OFIC's comments will not address the proposed rules with the same degree of technical specificity as the coalition comments, we feel that it is important that we highlight a number of concepts proposed in the rules that are of particular concern to the forest products manufacturing sector.

At the outset, we want to clearly state our appreciation for areas where DEQ improved the proposed rules over the course of the rulemaking process. There are numerous examples of ways in which the proposed rules show marked improvement over earlier drafts – such as inclusion of the concept of "presumptive MSERT" for various control technologies. That said, we still have numerous concerns with concepts contained in the rules, as well as with concepts that the rules do away with.

I. Elimination of Generic PSELs

Chief among these concerns is DEQ's decision to eliminate Generic PSELs. This constitutes a seismic shift in the philosophy of Oregon's air quality program that eliminates flexibility without, in our opinion, conferring any significant environmental benefit. We implore DEQ to

reconsider its decision to eliminate a concept that has worked well for over 20 years. There are less severe ways to protect NAAQS, such as allowing Generic PSELs unless modeling or monitoring raises a concern that a facility is imperiling NAAQS compliance, or limiting application of Generic PSELs to facilities with emissions below a certain percent threshold of a particular NAAQS. Going this route would consume far fewer agency resources while maintaining a program that provides common-sense flexibility for facilities making changes that will result in minimal PSEL increases.

II. Curtailment of Type 1 and Type 2 NOC Categories

We are similarly concerned with DEQ's curtailment of the Type 1 and Type 2 NOC categories. The changes to these categories reflected in the draft rule are likely to cause even basic facility upgrades or repairs to trigger the much of costly and time-consuming Type 3 NOC process, and again, this additional burden on permitted facilities will result in little to no incremental environmental benefit. In general, the revised NOC requirements in the proposed rules and the new "minor source review" program and accompanying MSERT concept will add significant time and costs to almost any minor project, particularly in light of the elimination of Generic PSELs and forced use of PTE to set PSELs.

In fact, it is reasonable to assume the proposed rules could actually prevent facilities from undergoing control technology upgrades that would be a net positive for environmental protection (e.g. in the case of a facility considering replacing an old boiler with a newer, more efficient model) given the additional burden of having to go through Type 3 NOC and the new minor source review program, where before the change being contemplated would have qualified for Type 1 or Type 2 NOC. This is not only inconsistent with the animating purpose of the air quality program, but perversely disincentivizes permitted facilities from making environmentally beneficial changes to their facilities.

We would also note that these changes make DEQ's assertion that the new rules come with no cost increases to regulated facilities largely specious. By transforming most projects requiring notice to DEQ into Type 3 permitting actions, the effective fee paid by a facility undergoing an upgrade project will increase from the current $720 fee to a minimum of $18,000 (under DEQ's current fee schedules) for each project affected by the proposal. That fee increase is separate from the significant costs that Oregon businesses will incur complying with the new regulatory programs (e.g., Minor Source New Source Review) included with the proposal.

III. Scope of Modeling Required by Draft Rules

Finally, we would be remiss if we did not express concern with the scope of modeling being proposed, both under the new source minor source review program, and in OAR 340-216-0040 for permit renewals and modifications. We absolutely agree that modeling is reasonable when a project is reasonably likely to cause a NAAQS exceedance, when a NAAQS is changed, or when a modified facility's *controlled* emissions are in excess of the Minor Source SER. However, what DEQ is proposing goes far beyond this, and would give DEQ almost unfettered discretion to

require modeling for almost every minor modification or permit renewal. Again, the burden of this requirement is disproportionate to the prospective benefit, making it more difficult for facilities to operate effectively in this state without meaningfully protecting human health and air quality.

OFIC and its member companies are firmly committed to safeguarding Oregon's clean air. Our members have been part of a permitted community that has largely succeeded in maintaining a sterling record of compliance with both state and federal air quality standards. This is a point of pride for us and is a message that we hope to see DEQ trumpet with unqualified verve. Instead, the agency seems insistent on reducing program flexibility and dramatically increasing the burden on permitted facilities without any concomitant improvement in environmental protection. We ask DEQ to, at a minimum, reconsider the course it has charted in these proposed rules that would scrap the long-standing Generic PSEL concept, gut the Type 1 and Type 2 NOC categories, and require modeling when no NAAQS exceedance is reasonably anticipated. Thank you for taking these comments into consideration.

Sincerely,

Tyler Ernst
Policy Counsel, Manufacturing & Resources
Oregon Forest & Industries Council
O: (503) 586-1245 | C: (517) 898-0557 | tyler@ofic.com

Health Department

Multnomah County

Environmental Health

Department of Environmental Quality
Air Quality Permitting Updates 2022
2022.AQPermits@DEQ.oregon.gov

August 1, 2022

DEQ Air Quality Permit Staff,

Thank you for the opportunity to participate in the Air Quality Permitting Updates Rules Advisory Committee(RAC) meetings and comment on the 2022 updates to DEQ's air quality permitting program. The Multnomah County Health Department supports the proposed rule updates, which have been overdue in protecting Oregon communities and are an important step in advancing environmental justice.

Air permitting programs and rules that result in significant reductions of human exposure to emissions of air contaminants support health. Multnomah County sees the highest cancer risk from air pollution in the state, with an estimated cancer risk from air toxics of 36.5 in 1 million[1]. In February 2022, parallel to this RAC process, the Board of Multnomah County Commissioners enacted a Clean Air Resolution (No. 2022-010), resolving that all people who live, work, or visit Multnomah County should be able to breathe clean air, everywhere, at all times. To meet this goal, we must continuously advocate for and reduce pollution from all sources. In Resolution No. 2021-017 the Board of County Commissioners declare racism a public health crisis and named racism as a root cause of health inequities impacting the life course of Black, Indigenous, and all People of Color, including Latinx, Pacific Islanders, and Asians, as well as immigrants and refugees of color, and negatively impacting all people living in Oregon. There are pronounced disparities by race and ethnicity in deaths and illness from causes related to air pollution, especially among our Black and brown community members. Black residents suffer higher death rates compared to white residents from diabetes, cancer and stroke (2.7, 1.4 & 1.5 times higher respectively) .[2]

Industrial pollution is an important contributor, as is increasingly evident as we learn more from the Cleaner Air Oregon process. This is especially true in areas near large emitters where localized impacts are greater.[3] We know that when agencies act to protect the most vulnerable among us, the entire community is protected. The science and understanding of the impacts of exposure to air pollution, even at small concentrations, is expanding and emphasizes the need for continuous

[1] EPA, NATA 2018
[2] Oregon Death Certificates 2012-2016
[3] Oregon Department of Environmental Quality summary of 2017 National Emissions Inventory data, 2020

improvement, emissions reductions, and permitting rule revisions. Leading with these values, we applaud DEQ in drafting rules and rule language that has not only been decades overdue but also works towards eliminating any regulation that exacerbates or perpetuates disproportionate pollution exposure, especially in low income neighborhoods and communities of color.

However, there continue to be areas within the rules and air quality program that could be more health protective:

Environmental Justice Considerations

In addition to the protection of public health, the rules must also be restorative and accomplish greater equity than the status quo. In previous comments, we stated that at a very minimum, DEQ should meet federal and state statutory standards of environmental justice (including Title VI of the Civil Rights Act of 1964, Executive Order 12898, and ORS 182.545) by ensuring equal protections and enhanced outreach and engagement for underrepresented communities, including Black, Indigienous, and communities of color, as well as low-income and rural communities, and any other vulnerable populations such as children, the elderly, or people with disabilities. We do agree that the draft rules will more favorably impact environmental justice and racial equity (ie: increased modeling requirement, elimination of PSELs, tech reviews). However, DEQ needs to meet the spirit of its statutory obligation pursuant to ORS 182.545 and continue to build on the many conversations held with communities on meaningful involvement during the Cleaner Air Oregon process. For example, during the CAO rulemaking process, local health authorities and community advocates recommended DEQ fully staff and resource at least one, ideally one per region, Citizen Advocate position to ensure that underrepresented and disproportionately impacted communities have opportunities to meaningfully participate in critical permit and rulemaking processes that will affect their health and lives. We are echoing this request once again. Parallel to this request and perhaps out of the rules scope, but not the air quality program's, DEQ should consider elements that build community capacity to understand the rules and provide risk-translation to communities (i.e. work with community-based organizations to train-up community air quality ambassadors and/or resource a technical expert outside of the agency).

Understanding and Evaluating Health Impacts

DEQ currently has information available from permitted facilities and readily available data sources that would allow a basic characterization of environmental justice impacts in Oregon based on criteria pollutants and air toxics. Understanding baseline conditions would be specifically helpful in determining how and where to continue to implement changes and the urgency to make them in rule making processes. This analysis has been requested in past RAC meetings and comment periods. Documenting and reporting on baseline conditions reinforces the potential for human health impacts from permitted facilities. Without knowledge of existing conditions, neither DEQ, the public, nor

Health Department

Multnomah County

Environmental Health

stakeholders are able to discern with strong confidence whether implementation of proposed rule changes can and will address environmental injustices.

DEQ's Request for other options

Striving for the status quo or even currently established NAAQS is not enough as evidence continues to grow that the NAAQS are not protective enough already (showcased by the lower guidelines from other agencies, like the World Health Organization). DEQ's proposed rule change on minor source Significant Emission Rates for devices or activities that trigger review should follow Option 1, the option with the lower emissions levels, which would place DEQ as a leader across the nation, with some of the lowest permissible threshold levels. DEQ has stated, in each RAC meeting, its goals for this rulemaking to include the protection of air quality; reducing emissions is protecting air and people. Protecting health through continuous emission reductions should be a motivator in any rule amendments and program changes here and forward.

We would again like to thank Oregon DEQ for considering these comments and for inviting Multnomah County to participate in the RAC. We urge DEQ to continuously prioritize and protect community health while working to improve and implement a transparent air permitting process. We strongly support the continued public health representation and engagement in air quality programs and efforts. We will continue to support DEQ in achieving fair, robust and health protective rules for air permitting in Oregon and urge you to put forward the strongest, most protective rules possible. Thank you for the opportunity to provide final written comments.

Ann M Loeffler, MD
Acting Health Officer
Multnomah County Health Department

From: oregon-gov-web-services@egov.com
To: AQPERMITS 2022 * DEQ
Subject: Comment on Air Quality Permitting Updates 2022 Rulemaking
Date: Friday, July 15, 2022 1:56:41 PM
Attachments: formsubmission.csv

First name	Patricia
Last name	Jacobs
Email address	patty.jacobs@deq.oregon.gov
Organization	Oregon DEQ - NWR AQ
Comment	Please incorporate a change to all submittals that are due in X number of calendar days to be able to submit the "next business day" if the X date falls on a holiday or a weekend. This change can be made in accordance with the requirements of OAR 340-214-0330(1)(a), and or any codified due date (e.g. 15 days from event). There is an Oregon statute (see below) that states when due dates fall on a “holiday,” the submittal is not required until the following business day. [ORS 187.010(3)] Note that by this statute, Sundays are designated holidays as are the following Monday (if holiday is on Sunday) or preceding Friday (if holiday is on Saturday). However, Saturdays are not designated legal holidays. 187.010 Legal holidays; acts deferred to next business day; effect on labor agreements. (1) The following days are legal holidays in this state: (a) Each Sunday. (b) New Year’s Day on January 1. (c) Martin Luther King, Jr.’s Birthday on the third Monday in January. (d) Presidents Day, for the purpose of commemorating Presidents Washington and Lincoln, on the third Monday in February. (e) Memorial Day on the last Monday in May. (f) Independence Day on July 4. (g) Labor Day on the first Monday in September. (h) Veterans Day on November 11. (i) Thanksgiving Day on the fourth Thursday in November. (j) Christmas Day on December 25. (2) Each time a holiday, other than Sunday, listed in subsection (1) of this section falls on Sunday, the succeeding Monday shall be a legal holiday. Each time a holiday listed in subsection (1) of this section falls on Saturday, the preceding Friday shall be a legal holiday. (3) Any act authorized, required or permitted to be performed on a holiday as designated in this section may be performed on the next succeeding business day; and no liability or loss of rights of any kind shall result from such delay. (4) In enumerating legal holidays in subsection (1) of this section, the Legislative Assembly does not intend to limit or otherwise affect public or private collective bargaining or collective bargaining agreements. [Amended by 1955 c.4 §1; 1969 c.455 §1; 1973 c.51 §1; 1975 c.633 §1; 1977 c.135 §1; 1977 c.321 §1; 1985 c.518 §1]

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Record ID: 1836

BIOMASS ONE LP

2350 Avenue G
White City, Oregon 97503
Office: 541-826-9422
Fax: 541-826-6186
www.biomassone.com

August 1, 2022

VIA EMAIL (2022.AQPERMITS@DEQ.OREGON.GOV)

Jill Inahara
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232

Re: Comments on Oregon Air Quality Permitting Updates 2022

Dear Ms. Inahara:

Biomass One, LP is writing this letter to comment on DEQ's proposal to update to Oregon's air quality rules.

Biomass One, LP has proudly operated in Oregon since the mid 1980's. Biomass One, LP benefits our community by reducing the mass of pollutants emitted into the air shed from the open burning of non-merchantable wood fiber. Biomass One, LP repurposes, in an environmentally responsible manner, over 350,000 tons of non-merchantable wood fiber annually. The repurposed wood fiber is used to generate renewable electricity, and as a consequence of the facility's pollution control systems, Biomass One, LP prevents thousands of tons of particulate and many tons of other pollutants from being discharged into the atmosphere as a result of uncontrolled and open burning activities of non-merchantable wood fiber. Biomass One, LP also repurposes high hazard fuels in the forest, in the form of logging debris and material from thinning operations, to provide fuel for the facility and to reduce the risk of forest land wildfire. Biomass One, LP provides a public service by providing a viable alternative to open burning and local area landfills by accepting thousands of tons of non-merchantable wood fiber annually via the Biomass One, LP public drop off location. Lastly, to support all of the aforementioned plant operations, Biomass One, LP provides approximately 80 family wage jobs in an environmental justice community.

Biomass One, LP supports DEQ taking responsible and proactive measures to ensure that air quality rules keep Oregon's air clean. However, Biomass One, LP is very concerned with DEQ's proposed rule changes. As proposed, the rule will impose significant new regulatory burdens on Oregon businesses, driving up the cost and time to obtain permits and approvals from DEQ. DEQ's proposed rule changes will leave Oregon businesses and workers at a competitive disadvantage as compared to sources operating in other states. DEQ has not provided any substantive analysis of any air pollution problem solved by the proposal. In fact, DEQ's own analysis has shown that regulated industrial sources represent only a small fraction of the air pollution in Oregon, and that mobile and nonroad sources have a much greater impact on our air quality.

The substantive concerns of Biomass One, LP with DEQ's proposed rule changes are detailed in the comments submitted by Stoel Rives, LLP, on behalf of a broad coalition of Oregon businesses and manufacturing associations including Oregon Business & Industry and many others (the "Coalition"). Biomass One, LP supports the Coalitions' comments and adopts them here by reference. In addition, we offer the following high-level comments, supported by examples, to highlight our concerns with DEQ's proposal:

DEQ's proposal rule will cause widespread and lengthy delays in construction approvals, hindering investment in Oregon businesses.

> Example: DEQ's proposed rule will transform the majority of projects completed by sources requiring notice to DEQ (i.e., Type 1 and 2 actions) into substantive (Type 3) actions, requiring significant pre-construction analyses and permitting. At present, even though DEQ handles only a few Type 3 permitting actions each year, each one takes typically takes 9-12 months for DEQ to process. DEQ has not explained how it can possibly process the dozens of Type 3 actions that will result from its proposed rule. DEQ should retain the existing notice of construction structure.

DEQ's proposed rule will substantially increase costs to comply with Oregon's air quality rules.

> Example: Even though DEQ's fee analysis for the proposed rule says the rule will not impose new fees, by transforming most projects requiring notice to DEQ into Type 3 permitting actions, DEQ will increase fees from the current $720 fee to a minimum of $18,000 (under DEQ's current fee schedules) for each project affected by the proposal. That fee increase is separate from the significant costs that Oregon businesses will incur complying with the brand new regulatory programs (e.g., Minor Source New Source Review) included with the proposal.

DEQ's proposed rule reverses decades of successful precedent, eroding compliance certainty.

> Example: The proposed rule, for the first time, would require businesses to submit notices of construction for routine maintenance, repair and like-kind replacement projects. Such projects have, for sound policy reasons, been exempt from the notice requirements for decades.
>
> Similarly, without any advance discussion before the Rulemaking Advisory Committee, DEQ is proposing to require many existing sources to comply with a brand-new control technology program (called Minor Source Emission Reduction Technology or MSERT). That program has no precedent in Oregon, was not authorized by the legislature, and could suddenly cause existing sources to be operating with technologies that do not comply. Existing sources have already made substantial investments to comply with Oregon's air quality program. DEQ should honor those investments and drop the proposed MSERT program.

DEQ's proposed rule will discourage businesses from undertaking projects to control air pollution.

Example: DEQ's proposed rule would, for the first time ever, require pre-construction approval for air pollution controls like HVAC systems that are voluntarily used by Oregon businesses but are not needed to comply with any applicable air emission limits. Upgrading HVAC systems benefits worker health by reducing exposures to allergens and COVID-19 and other virus-causing particles, improving overall indoor air quality. Given the substantive cost and delay associated with DEQ's pre-construction approval process, the result of DEQ's proposal will be to discourage Oregon businesses from undertaking air pollution control projects.

DEQ's proposed rule would give the agency unfettered discretion to interfere with and even curtail Oregon business operations.

Example: Under the proposal, DEQ seeks to give itself unchecked authority to require a business to do whatever DEQ determines may be needed (including forcing the business to accept any physical or operational limit that DEQ chooses) whenever DEQ decides (without objective criteria) that a source might cause or contribute to an air quality standard exceedance. Such unchecked regulatory authority will chill investment by Oregon's businesses, who will lack the ability to clearly identify DEQ's regulatory requirements.

DEQ's proposed rule eliminates agency accountability and removes longstanding procedural protections that constrain DEQ's ability to unilaterally change a source's air permit.

Example: DEQ justifies its proposed rule changes as a means to ensure that DEQ reviews construction proposals before a company proceeds with projects. However, DEQ seeks to remove the requirement mandating that DEQ must review air permit applications within 15 days of receipt—one of the few provisions in the rules that forces DEQ to act expeditiously.

Similarly, for decades, DEQ's rules have protected permitted sources from DEQ unilaterally modifying a source's air permit. The rules do this by allowing the source the right to stay any DEQ modification until the source's objections are heard in a contested case hearing. DEQ proposes to eliminate the source's right to an automatic stay pending a contested hearing, thereby depriving a source of an important protection.

DEQ has not justified the health or environmental need for the proposed rule, or evaluated risks to public health that will result from it.

Example: DEQ initially sought to justify its proposal by reference to the need to protect Oregonians from violations of the National Ambient Air Quality Standards ("NAAQS"). DEQ's "Statement of Need" for the rulemaking justifies the rule by saying it "[a]llows [DEQ] more opportunities to review air quality modeling of emission increases…." However, that justification fails to acknowledge that DEQ's own analysis (set forth in an agency-issued memorandum dated March 7, 2022) did not identify any widespread NAAQS compliance problem in Oregon. Instead, DEQ's analysis concluded that in the

vast majority of cases "the results don't indicate there were exceedances of the NAAQS, only that more refined modeling would be required." So, while DEQ's proposed rule will require manufacturers to conduct a lot more, expensive modeling, DEQ does not expect there to be any real issues identified.

In a nutshell, the rule might not redress NAAQS exceedances, but it will certainly raise costs (yet again) for the state's industrial sources and manufacturers. Because those same businesses provide disproportionately more well-paying jobs to people of color across the state—the communities this rule seeks to protect--we urge DEQ to act cautiously before finalizing its proposed rule. Specifically, we request that, before finalizing the rule, DEQ seek input from other state agencies (including from Oregon's Employment and Department of Administrative Services) to fully evaluate (and then mitigate) the potential economic impacts resulting from the proposed rule.

To reiterate, we are dedicated to an air regulatory program that maintains clean air for all Oregonians. But we cannot support the proposed changes that will increase regulatory burdens without any evident environmental or public health benefit. We are concerned that, due to the extreme pace of this rulemaking, DEQ has not yet carefully considered the costs and benefits of the various changes being proposed. We request that DEQ re-notice the proposed rule after considering these comments, and those of the larger coalition.

Thank you for this opportunity to comment on DEQ's proposal.

Sincerely,

Kurt E. Lumpkin

Kurt E. Lumpkin

cc by email:

Richard Whitman (richard.whitman@state.or.us)
Leah Feldon (leah.feldon@state.or.us)
Ali Mirzakhalili (ali.mirzakhalili@state.or.us)

Trinity Consultants
8705 SW Nimbus Ave, Ste 350, Beaverton, OR 97008 / P 503.713.5550 / **trinityconsultants.com**

August 1, 2022

Oregon DEQ
Attn: Jill Inahara
700 NE Multnomah St., Suite 600
Portland, OR 97232-4100
2022.AQPermits@DEQ.oregon.gov

RE: Public Comment for Proposed Air Quality Permitting Updates 2022

Dear Ms. Inahara:

This letter is written in response to the Oregon Department of Environmental Quality's (Oregon DEQ's) request for public comment on its proposed Air Quality Permitting Updates 2022 rulemaking on behalf of the data center industry. While the proposed rule changes are expansive and likely to have several unforeseen consequences due to the major overhaul in the regulations, the key concerns Trinity has with the proposed rulemaking are predictability, redundancy, and air permit processing timelines.

PERMITTING TIMELINES

In the proposed rules, Oregon DEQ has removed generic plant site emission limits (PSELs) and thereby set PSELs to the facility's potential to emit (PTE) for regulated pollutants. Additionally, there is no change allowed to the PSELs for a notice of intent to construct (Type 1 or 2 change). With these two updates alone, DEQ has significantly reduced the types of projects that would be considered for Type 1 or 2 changes, and under the new rules, the same projects would now require a permit modification (i.e., Type 3 or 4). The proposed regulations provide no timeline for agency approval or permit issuance for Type 3 or 4 changes which would allow regulated sources to estimate when construction for projects may commence.

As an example, a facility wants to add a new piece of equipment to their process that would result in a de minimis increase in annual potential emissions. Consider the following conclusions under the current regulations versus the draft rules:

- Under current regulations, this would be considered a Type 1 change with a predictable ten day agency approval period prior to installation with no public comment period.
- Under the draft rules, this project would be considered a Type 3 change which has no concrete air permit processing timelines. For this example, there would be no change to permit application requirements except the mechanism requiring a Type 3 change under the new rules. However, the timeline associated with the received permit is expected to be different, with no predictable timeline metric, and will include a public comment period of at least 30 days.

Another example would be a new piece of equipment that has a potential emission rate of 1.5 tons per year (tpy) of particulate matter with an aerodynamic diameter of 2.5 microns or less ($PM_{2.5}$) at a facility with a PTE of 3 tpy of $PM_{2.5}$. Consider the following conclusions under the current regulations versus the draft rules:

- Assuming a maximum achievable control technology (MACT) or typically available control technology (TACT) determination is not required, this would be considered a Type 2 change under the current

regulations as emission increases would be greater than de minimis levels but less than the SER and no change to the (generic) PSEL. Thus, the proposed project would be classified as a Type 2 change under the current regulations. A type 2 change is approved within 60 days.

- Under the draft rules, this would be a Type 3 change because there would be an increase to the PSEL. Again, there would be no change to permit application requirements since the potential emissions increase is less than the minor source SER; however, the source would no longer be able to estimate when a permit may be issued and when construction for projects may commence.

As highlighted in these two examples, minor projects will be pulled into permit modification requirements that offer little predictability in expected permit timelines and do not provide corresponding environmental or health benefits to the public. To ensure this doesn't happen, we suggest a few options:

1. Allow changes to PSEL for Type 1 and 2 changes to be equal to the allowable increase in potential emissions for a Type 1 or 2 changes. For a Type 2 change, this would be allowed up to the minor source SER; OR
2. Set permit limits to minor source SER levels as opposed to the historic generic PSELs and the proposed PTE for regulated pollutants.

MINOR SOURCE SIGNIFICANT EMISSION RATES

Oregon DEQ specifically requested comment on the minor source significant emission rates. As the draft rules are written, these rates will be used to determine when air dispersion modeling and/or a minor source emission reduction technology (MSERT) evaluation must be completed. The options proposed by Oregon DEQ are presented in Table 1.

Table 1. Minor Source Significant Emission Rate Options

Pollutant	Option 1 (tpy)	Option 2 (tpy)
NOx	5	10
PM_{10}	2	3
Direct $PM_{2.5}$	2	3
SO_2	5	10

Trinity recommends that Oregon DEQ move forward with Option 2 for the Minor Source SER. The 10 tpy limit for nitrogen oxides (NOx) and sulfur dioxide (SO_2) is consistent with the threshold to obtain an ACDP. Examples of emission units that may have emissions greater than Option 1, but less than Option 2 as determined by AP-42 emission factors and continuous operation are quite small including:

- 23.0 million British thermal units per hour (MMBtu/hr) uncontrolled natural gas fired boiler,
- 1.32 MMBtu/hr wood/bark fired boiler,
- 1 MMBtu/hr natural gas engine,
- 73 horsepower (hp) diesel engine, and/or
- 15,450 dry standard cubic feet per minute (dscfm) baghouse.

Air Dispersion Modeling

From an air dispersion modeling perspective, it is unlikely that an emissions increase described in Option 1 would show modeled concentrations that exceed the national ambient air quality standards (NAAQS), assuming all AERMOD allowable options are used as listed below:

- NOx – NOx emissions typically are generated from combustion emission units. Combustion units have higher exhaust temperatures and flowrates which provides better dispersion. Models for this pollutant can be complicated but are often completed in a conservative manner to reduce consulting costs. These conservative models are used to show compliance with air quality standards, not necessarily to show what concentrations may actually occur at receptors nearby of the emission unit. When all techniques of NOx modeling are employed, such as hourly and seasonal background ozone concentrations, hourly and seasonal background nitrogen dioxide concentrations, operating hour restrictions, and even Monte Carlo simulations – results for emission units with a PTE between Option 1 and Option 2 thresholds are expected to be below NAAQS.
- SO_2 – Similar conclusions to NOx without as many refinements available to AERMOD. However, SO_2 is primarily a concern for coal power plants or other higher sulfur fuels that are not typically used in Oregon, nor allowable for new facilities.
- $PM_{10}/PM_{2.5}$ – Both Option 1 and Option 2 for particulate emissions are relatively low. As such, it seems unreasonable to require air dispersion modeling for emission units that have a PTE of 3 tpy (or 2 tpy).

The implementation of air dispersion modeling will force facilities which have not been required to undertake such significant efforts to demonstrate compliance with the NAAQS, notably small facilities and small businesses. This is significant because smaller facilities (i.e., annually lower emitting facilities) typically have operations that are less conducive to AERMODs base or simpler assumptions. When a facility completes modeling, typically, the model is setup to allow continuous operation at the physical or operational capacity of emission sources. However, operations at smaller facilities often occur on an intermittent basis. A few examples that do not fit the assumption of continuous operations that would be more likely to occur at small facilities are as follows:

- Maintenance and testing emissions from emergency equipment;
- Limited operations on a shift schedule, e.g., 8 am to 5 pm;
- Materials or equipment used at specific client request, indicating rare short term use; and/or
- Operations occurring less frequently than daily, such as coating A typically applied on Tuesdays or infrequent large raw material receiving.

While AERMOD has mechanisms to model these operations (i.e., handle the infrequency of use or adjusted schedule), these are not base assumptions. There are additional steps required which incur higher consulting costs and longer agency review time. Furthermore, permit conditions requiring additional records to prove compliance with general onsite practices may be required. The cost of modeling, and subsequently proving compliance, becomes a significant financial burden on a smaller facility that has the same or more recordkeeping requirements than a larger one.

The data center industrial group has had many facilities, and some of the most recent facilities, permitted under Oregon's Cleaner Air Oregon (CAO) program. This indicates a large growth sector within the state. Oregon DEQ has recently processed NAAQS compliance demonstrations for a few data centers that required Monte Carlo demonstrations. Statistical analyses such as those that use the Monte Carlo method requires additional complex modeling inputs and capabilities. Since engines may be operated in a multitude of arrangements or loads, DEQ has requested a statistical method be used to show compliance with the ambient air quality standards. The Monte Carlo analyses are resource and time intensive. The analyses require modeling individually for several maintenance and testing scenarios, and the results then serve as inputs to yet another separate model to randomize potential operational scenarios. This method requires specialized consulting resources and computer(s) with tremendous processing power and memory.

A suggestion to accommodate the more agile nature of smaller businesses as well as inconsistent or non-continuous operations may be to allow the use of averaging or other methods to decrease cost and time associated with refined methods. Demonstration of NAAQS compliance can be achieved using an annualized emission method for NO_2 and $PM_{2.5}$. Annualized methods allow for use of calculated emissions with an annual averaging period that assume continuous operation. This would reduce the burden of providing representative background data for Oregon DEQ, the need for time- and resource-intensive specialized modeling methods, and the need for specialized modeling resources. The annualized method is currently recommended by EPA in Additional Clarification of Guidance for Implementation of the 1-hour NO2 NAAQS Under PSD (epa.gov) and used in Ohio and Maricopa County, AZ as a standard practice. Oregon DEQ may consider tying this simpler method to a requirement to add control technology to emergency generators or Tier 4 compliant units.

Minor Source Emission Reduction Technology

From an MSERT perspective, it is unlikely that controlling emissions from a single emission unit of 5 tpy for NO_x and/or SO_2 would be economically feasible. The typical capital cost for emission controls is on the order of hundreds of thousands of dollars. While add on controls for PM_{10} and $PM_{2.5}$ are typically less expensive, these would still be unlikely to be economically feasible.

The MSERT requirement appears to add additional requirements without additional environmental or health benefits. Currently, Oregon rules require facilities to have the Highest and Best Practicable Treatment and Control under OAR 340-226-0100 through 0140. Notably, OAR 340-226-0130 is the requirement for TACT. While the current rules and draft rules use several acronyms, in essence, TACT, best available control technology (BACT), and MSERT reduce to a common control technology evaluation and anticipated conclusion. There are nuances to each of these terms, but in practice the evaluation is primarily to review the emission unit on a pollutant-by-pollutant basis and determine if lower emissions are technically, economically, and/or commonly feasible for the technology and physical space. Generally, this is accomplished by reviewing databases and manufacturer discussions to ascertain if other similar processes are currently using any of the technologies. If the answer is yes, economics are evaluated to determine if a change is warranted. It seems the MSERT requirement is already established in other air quality requirements and does not provide any change to current practices.

What is the agency's expected change with the addition of this requirement?

If this MSERT requirement remains, it would be helpful to see presumptive MSERT for emission units that are typically permitted. Development of a presumptive MSERT for emergency generators specifically would provide definitive guidelines for permittees to reference. Defaulting to federal engine requirements, such as New Source Performance Standard (NSPS) Subpart IIII and/or JJJJ limits, is most typically accepted in other states for these types of units.

PREDICTABILITY IN PROCESSING PERMIT APPLICATIONS

Over the past five years, Oregon DEQ has made major changes to staffing, regulations, and policies that have impacted the capabilities of industry overall to respond to drastic changes in market demand, and more recently, to maneuver through supply chain issues.

- Oregon DEQ has implemented regulations for toxics through Cleaner Air Oregon, which has proven challenging for the industrial sector to provide information necessary to obtain a permit. Oregon DEQ has continually updated guidance and expectations associated with submittals needed to demonstrate acceptable risk.

- Oregon DEQ added a policy to require air dispersion modeling for short term NAAQS standards for NO_2, SO_2, or $PM_{2.5}$ emissions at new sources.
- Several tenured permit writers have retired in recent months leaving the agency with few experienced permit writers, and several new or inexperienced staff. DEQ has struggled to find replacements with industrial and regulatory expertise.
- The Oregon DEQ now has several different departments/groups involved in a single air permit application, including, as an example, a single project may warrant multiple communications with different Oregon DEQ staff such as a permit writer, modeler, CAO member, climate policy advisor, manager, and several others.

What is Oregon DEQ's plan to provide appropriate staffing levels and communication between staff to ensure applications can be processed in a timely manner? How will Oregon DEQ attract new employees in the current market?

Trinity has a few suggestions to assist Oregon DEQ with the predictability of permitting timelines:

1. Consider an online queue indicating the number of applications in review or awaiting review, and typical review timeline. Similar to what might be observed in hospitals and clinics that indicate wait time until available appointment.
2. Provide/assign/allow third party permit writers, stack testers, modelers, and other experienced professionals to review submitted applications. This would reduce time spent by agency personnel and allow facilities to submit an application that has already been reviewed. Potentially a facility could submit an application to the third party, and that third party would submit a draft permit with the review report for the agency to review/issue.
    a. This sort of practice is already being completed with Oregon's greenhouse gas emission third party review requirements.
3. Post example reports, forms, and applications that have been submitted and detail why these reports are helpful submissions to ensure expedited review.
4. Provide annual training sessions on permit applicability and expected application contents. Use training as a method to reduce applications submitted that have to be revised. Usefulness of this training could be tracked with a checkbox on permit application forms to see if the person completing the application.

Trinity appreciates Oregon DEQ's consideration of our comments on the proposed Air Quality Permitting Updates 2022 rulemaking. Should you have any comments or questions, please feel free to reach out directly to me at mhillman@trinityconsultants.com.

Sincerely,

TRINITY CONSULTANTS

Melissa Hillman
Regional Manager – Pacific Northwest

August 1, 2022

VIA EMAIL (2022.AQPERMITS@DEQ.OREGON.GOV)

Jill Inahara
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232

Re: Comments on Oregon Air Quality Permitting Updates 2022

Dear Ms. Inahara:

Weyerhaeuser NR Company (Weyerhaeuser) is writing this letter to comment on DEQ's proposal to update to Oregon's air quality rules.

Weyerhaeuser has proudly operated in Oregon since 1929 and employs 972 people across the state. These jobs offer Oregonians livable wages, health insurance, and retirement benefits. Weyerhaeuser is dedicated to developing employees at all levels of the company to create an effective, diverse, and engaged workforce; while simultaneously producing a high quality sustainable product that can be utilized to further build Oregon in a variety of business sectors.

We support DEQ taking responsible and proactive measures to ensure that our air quality rules keep Oregon's air clean. However, we are very concerned with DEQ's proposed rule. As proposed, the rule will impose significant new regulatory burdens on Oregon businesses, driving up the cost and time to obtain permits and approvals from DEQ. DEQ's proposed rule will leave Oregon businesses and workers at a competitive disadvantage as compared to sources operating in other states. But DEQ has not provided any substantive analysis of any air pollution problem solved by the proposal. In fact, DEQ's own analysis has shown that regulated industrial sources represent only a small fraction of the air pollution in Oregon, and that mobile and nonroad sources have a much greater impact on our air quality.

Our substantive concerns with DEQ's proposed rule are detailed in the comments submitted by Stoel Rives on behalf of a broad coalition of Oregon businesses and manufacturing associations. We support the Stoel Rives' comments and adopt them here by reference. In addition, we offer the following high-level comments, supported by examples, to highlight our concerns with DEQ's proposal:

DEQ's proposal rule will cause widespread and lengthy delays in construction approvals, hindering investment in Oregon businesses.

> Example: DEQ's proposed rule will transform the majority of projects completed by sources requiring notice to DEQ (i.e., Type 1 and 2 actions) into substantive (Type 3) actions, requiring significant pre-construction analyses and permitting. At present, even though DEQ handles only a few Type 3 permitting actions each year, each one takes typically takes 9-12 months for DEQ to process. DEQ has not explained how it can

possibly process the dozens of Type 3 actions that will result from its proposed rule. DEQ should retain the existing notice of construction structure.

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DEQ's proposed rule reverses decades of successful precedent, eroding compliance certainty.

Example: The proposed rule, for the first time, would require businesses to submit notices of construction for routine maintenance, repair and like-kind replacement projects. Such projects have, for sound policy reasons, been exempt from the notice requirements for decades.

Similarly, without any advance discussion before the Rulemaking Advisory Committee, DEQ is proposing to require many existing sources to comply with a brand-new control technology program (called Minor Source Emission Reduction Technology or MSERT). That program has no precedent in Oregon, was not authorized by the legislature, and could suddenly cause existing sources to be operating with technologies that do not comply. Existing sources have already made substantial investments to comply with Oregon's air quality program. DEQ should honor those investments and drop the proposed MSERT program.

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Example: DEQ's proposed rule would, for the first time ever, require pre-construction approval for air pollution controls like HVAC systems that are voluntarily used by Oregon businesses but are not needed to comply with any applicable air emission limits. Upgrading HVAC systems benefits worker health by reducing exposures to allergens and COVID-19 and other virus-causing particles, improving overall indoor air quality. Given the substantive cost and delay associated with DEQ's pre-construction approval process, the result of DEQ's proposal will be to discourage Oregon businesses from undertaking air pollution control projects.

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Example: Under the proposal, DEQ seeks to give itself unchecked authority to require a business to do whatever DEQ determines may be needed (including forcing the business to accept any physical or operational limit that DEQ chooses) whenever DEQ decides (without objective criteria) that a source might cause or contribute to an air quality standard exceedance. Such unchecked regulatory authority will chill investment by Oregon's businesses, who will lack the ability to clearly identify DEQ's regulatory requirements.

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Similarly, for decades, DEQ's rules have protected permitted sources from DEQ unilaterally modifying a source's air permit. The rules do this by allowing the source the right to stay any DEQ modification until the source's objections are heard in a contested case hearing. DEQ proposes to eliminate the source's right to an automatic stay pending a contested hearing, thereby depriving a source of an important protection.

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Example: DEQ initially sought to justify its proposal by reference to the need to protect Oregonians from violations of the National Ambient Air Quality Standards ("NAAQS"). DEQ's "Statement of Need" for the rulemaking justifies the rule by saying it "[a]llows [DEQ] more opportunities to review air quality modeling of emission increases…." However, that justification fails to acknowledge that DEQ's own analysis (set forth in an agency-issued memorandum dated March 7, 2022) did not identify any widespread NAAQS compliance problem in Oregon. Instead, DEQ's analysis concluded that in the vast majority of cases "the results don't indicate there were exceedances of the NAAQS, only that more refined modeling would be required." So, while DEQ's proposed rule will require manufacturers to conduct a lot more, expensive modeling, DEQ does not expect there to be any real issues identified.

In a nutshell, the rule might not redress NAAQS exceedances, but it will certainly raise costs (yet again) for the state's industrial sources and manufacturers. Because those same businesses provide disproportionately more well-paying jobs to people of color across the state—the communities this rule seeks to protect--we urge DEQ to act cautiously before finalizing its proposed rule. Specifically, we request that, before finalizing the rule, DEQ seek input from other state agencies (including from Oregon's Employment and Department of Administrative Services) to fully evaluate (and then mitigate) the potential economic impacts resulting from the proposed rule.

To reiterate, we are dedicated to an air regulatory program that maintains clean air for all Oregonians. But we cannot support the proposed changes that will increase regulatory burdens without any evident environmental or public health benefit. We are concerned that, due to the extreme pace of this rulemaking, DEQ has not yet carefully consider the costs and benefits of the various changes being proposed. We request that DEQ re-notice the proposed rule after considering these comments, and those of the larger coalition.

Thank you for this opportunity to comment on DEQ's proposal.

Sincerely,

Brent Czaban.

BRENT CZABAN.

cc by email:

Richard Whitman (richard.whitman@state.or.us)
Leah Feldon (leah.feldon@state.or.us)
Ali Mirzakhalili (ali.mirzakhalili@state.or.us)

2550 Old Salem Road NE
Albany, OR 97321

Phone: (888) 650-6302
www.arauco-na.com

arauco

August 1, 2022

VIA EMAIL (2022.AQPERMITS@DEQ.OREGON.GOV)

Jill Inahara
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232

Re: Comments on Oregon Air Quality Permitting Updates 2022

Arauco is writing this letter to comment on DEQ's proposal to update to Oregon's air quality rules.

Arauco North America is a wood products company and is a wholly owned subsidiary of Celulosa Arauco y Constitución and currently operates a single facility located in Albany, Oregon (along with 7 other facilities in the United States and Canada). Arauco has a worldwide presence including Mexico, South America, and Europe. Arauco is a growing company with a reputation for valuing the Environment and Sustainability. Arauco is the first global forestry company to certify its GHG Carbon Neutrality. The Albany Facility (also known as Duraflake) utilizes 100% residual wood for manufacturing particleboard and thermally fused laminated Particleboard. Duraflake is also a Title V permitted facility that will be subject to the proposed Oregon Air Quality Permitting updates.

Sustainable Jobs in Oregon
Arauco's facility in Albany has been in continual operation since 1962. This facility employs roughly 140 employees in Linn County and many other jobs indirectly through raw material deliveries, shipping finished products, contractors, and other site services. This results in family living wage jobs with benefits for the community that Arauco has the privilege of serving.

Arauco's primary raw material is post industrial waste from wood products facilities in the form of wood chips and shavings. Duraflake is FSC certified and also certifies their panels under the Composite Panel Association's Eco-Certified Composites program, which means the following: the panels result in a "carbon sink" effect on greenhouse gas generation, at least 85% of the fiber is sourced from within 250 miles of the plants, a majority of the fiber utilized as a raw material is recycled or recovered fiber, and over 95% of the wood brought on site is turned in to product. Arauco takes great pride in turning this potential waste stream into a renewable consumer product.

arauco

Oregon Air Quality Permitting Update Comments

We support DEQ taking responsible and proactive measures to ensure that our air quality rules keep Oregon's air clean. However, we are very concerned with DEQ's proposed rule. As proposed, the rule will impose significant new regulatory burdens on Oregon businesses, driving up the cost and time to obtain permits and approvals from DEQ. DEQ's proposed rule will leave Oregon businesses and workers at a competitive disadvantage as compared to sources operating in other states. But DEQ has not provided any substantive analysis of any air pollution problem solved by the proposal. In fact, DEQ's own analysis has shown that regulated industrial sources represent only a small fraction of the air pollution in Oregon, and that mobile and nonroad sources have a much greater impact on our air quality.

Our substantive concerns with DEQ's proposed rule are detailed in the comments submitted by Stoel Rives on behalf of a broad coalition of Oregon businesses and manufacturing associations. We support the Stoel Rives' comments and adopt them here by reference. In addition, we offer the following high-level comments, supported by examples, to highlight our concerns with DEQ's proposal:

***DEQ's proposal rule will cause widespread and lengthy delays in construction approvals, hindering investment in Oregon businesses*.**

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Example: DEQ's proposed rule would, for the first time ever, require pre-construction approval for air pollution controls like HVAC systems that are voluntarily used by Oregon businesses but are not needed to comply with any applicable air emission limits. Upgrading HVAC systems benefits worker health by reducing exposures to allergens and COVID-19 and other virus-causing particles, improving overall indoor air quality. Given the substantive cost and delay associated with DEQ's pre-construction approval process, the result of DEQ's proposal will be to discourage Oregon businesses from undertaking air pollution control projects.

DEQ's proposed rule would give the agency unfettered discretion to interfere with and even curtail Oregon business operations.

Example: Under the proposal, DEQ seeks to give itself unchecked authority to require a business to do whatever DEQ determines may be needed (including forcing the business to accept any physical or operational limit that DEQ chooses) whenever DEQ decides (without objective criteria) that a source might cause or contribute to an air quality standard exceedance. Such unchecked regulatory authority will chill investment by Oregon's businesses, who will lack the ability to clearly identify DEQ's regulatory requirements.

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DEQ's proposed rule eliminates agency accountability and removes longstanding procedural protections that constrain DEQ's ability to unliterally change a source's air permit.

Example: DEQ justifies its proposed rule changes as a means to ensure that DEQ reviews construction proposals before a company proceeds with projects. However, DEQ seeks to remove the requirement mandating that DEQ must review air permit applications within 15 days of receipt—one of the few provisions in the rules that forces DEQ to act expeditiously.

Similarly, for decades, DEQ's rules have protected permitted sources from DEQ unilaterally modifying a source's air permit. The rules do this by allowing the source the right to stay any DEQ modification until the source's objections are heard in a contested case hearing. DEQ proposes to eliminate the source's right to an automatic stay pending a contested hearing, thereby depriving a source of an important protection.

DEQ has not justified the health or environmental need for the proposed rule, or evaluated risks to public health that will result from it.

Example: DEQ initially sought to justify its proposal by reference to the need to protect Oregonians from violations of the National Ambient Air Quality Standards ("NAAQS"). DEQ's "Statement of Need" for the rulemaking justifies the rule by saying it "[a]llows [DEQ] more opportunities to review air quality modeling of emission increases…." However, that justification fails to acknowledge that DEQ's own analysis (set forth in an agency-issued memorandum dated March 7, 2022) did not identify any widespread NAAQS compliance problem in Oregon. Instead, DEQ's analysis concluded that in the vast majority of cases "the results don't indicate there were exceedances of the NAAQS, only that more refined modeling would be required." So, while DEQ's proposed rule will require manufacturers to conduct a lot more, expensive modeling, DEQ does not expect there to be any real issues identified.

In a nutshell, the rule might not redress NAAQS exceedances, but it will certainly raise costs (yet again) for the state's industrial sources and manufacturers. Because those same businesses provide disproportionately more well-paying jobs to people of color across the state—the communities this rule seeks to protect--we urge DEQ to act cautiously before finalizing its proposed rule. Specifically, we request that, before finalizing the rule, DEQ seek input from other state agencies (including from Oregon's Employment and Department of Administrative Services) to fully evaluate (and then mitigate) the potential economic impacts resulting from the proposed rule.

To reiterate, we are dedicated to an air regulatory program that maintains clean air for all Oregonians. But we cannot support the proposed changes that will increase regulatory burdens without any evident environmental or public health benefit. We are concerned that, due to the extreme pace of this rulemaking, DEQ has not yet carefully consider the costs and benefits of the various changes being proposed. We request that DEQ re-notice the proposed rule after considering these comments, and those of the larger coalition.

Thank you for this opportunity to comment on DEQ's proposal.

Sincerely,

Jon Jensen
Albany Facility Manager

Jason Young
Duraflake/Albany Environmental Manager

cc by email:

Richard Whitman (richard.whitman@state.or.us)
Leah Feldon (leah.feldon@state.or.us)
Ali Mirzakhalili (ali.mirzakhalili@state.or.us)

EVRAZ

Debbie Deetz Silva
Environmental Manager
phone: 503-978-6044
email: Debbie.Silva@evrazna.com

August 1, 2022

Via Email (2022.AQPERMITS@DEQ.OREGON.GOV)

Ms. Jill Inahara
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232

Re: Comments on Oregon Air Quality Permitting Updates 2022

To Ms. Inahara,

EVRAZ Oregon Steel (EVRAZ) is submitting comments on DEQ's proposed updates to Oregon's air quality rules.

EVRAZ has proudly operated in Oregon for decades. EVRAZ works hard to operate the primary steel plate and coil manufacturing mill in compliance with air rules and the facilities Title V air permit. Improvement projects are planned for, make good sense and implemented to adhere to continued compliance with regulatory rules. Lately over the past few years however, DEQ has embarked on a series of rulemaking changes that erodes at the ability for EVRAZ to ensure compliance regardless of best intentions. It has becomes increasingly difficult and more costly with each rulemaking and new programs, to navigate the ever changing landscape and is magnified by the growing high levels of uncertainty with these rulemaking.

EVRAZ supports DEQ taking responsible and proactive measures to ensure that our air quality rules keep Oregon's air clean. However, this set of DEQ proposed rulemaking is cause for great concern. As proposed, the air rules will impose significant new regulatory burdens on EVRAZ, driving up the cost and time to renew our Title V permit and any future construction approvals from DEQ. The steel industry is a highly competitive market and DEQ's proposed rule will with certainty leave EVRAZ and our workers at a competitive disadvantage as compared to other steel plate mills operating overseas as well other states. The pace at which DEQ has moved forward with this rulemaking is concerning, including DEQ's unwillingness to allow the Advisory Committee an appropriate amount of time to complete their review of the draft rule. EVRAZ is concerned because DEQ has not provided any substantive analysis of any air pollution problem solved by the proposal. DEQ's analysis has shown that regulated industrial sources represent only a small fraction of the air pollution in Oregon, and that mobile and non-road sources have a much greater impact on our air quality.

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EVRAZ substantive concerns with DEQ's proposed rule are detailed in the comments submitted by Stoel Rives on behalf of a broad coalition of Oregon businesses and manufacturing associations. EVRAZ supports the Stoel Rives' comments and adopt them here by reference. In addition, EVRAZ offers the following high-level comments, supported by examples, to highlight our concerns with DEQ's proposal:

DEQ's proposed rule does not provide clarity on the status of current air permit applications and renewal applications already submitted to DEQ which causes widespread uncertainty.

Example: DEQ's proposed rule does not address air permit applications that were submitted prior to the proposed rule becoming effective. Air permit applications and air permit renewal applications submitted to DEQ under the current rules were prepared by facilities based on the current rule requirements. Initial air permit applications and Title V permit renewal applications are time consuming for facilities to prepare. Applications are typically prepared 6-9 months prior to submittal to DEQ. The approach and requirements for preparing an initial air permit application or a Title V permit renewal application under the current set of rules would be different under these proposed air rules given the expansive number of proposed changes and significance of these proposed new rules. Clarity should be included in the proposed rule on the method DEQ will take for those applications previously submitted. Applications submitted to DEQ under the current rules should be processed and air permits issued by DEQ using the current rules. As such, DEQ should include language addressing air permit applications and air permit renewal applications submitted prior to the effective date of the proposed rules.

For example, EVRAZ is concerned that an air quality analysis (modeling) as part of a permit renewal process, as indicated in these proposed rules is unnecessary. Particularly if the permit renewal shows there are no substantial changes in facility operations and no increases in emissions. Cleaner Air Oregon program implementation has already highlighted the challenges DEQ faces with review and processing of the various facility modeling efforts. The stability of a Title V permit renewal with a layer of modeling added to the process would cripple a facility's optimism for a timely Title V permit renewal despite best efforts.

DEQ's proposed rule requires air permitting for routine maintenance, repair, and like for like replacement projects.

Example: DEQ's proposed rule would, for the first time ever, require pre-construction approval for the replacement of air pollution controls. DEQ's proposed Notice of Construction requirements include modifications and replacements by definition. Modification, by definition, does not include routine maintenance and repair or like-for-like replacements. The proposed rule would as an example, require a Notice of Construction to be submitted to DEQ for replacing the bags in a baghouse. Performing regular

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maintenance, such as replacing the bags in a baghouse is good air pollution control practices.

DEQ's proposed rule would require facilities to submit a Notice of Construction for following good air pollution control practices, which is onerous on facilities and does not create a health or environmental benefit. Replacements that are not considered modifications, such as routine maintenance, repair, and like for like replacements, should be exempt from the Notice of Construction requirements.

DEQ's proposed rule are overly burdensome for air permit renewal applications and creates an uncertain permitting path.

Example: DEQ's proposed rule allows DEQ to request an air quality analysis as a required air permit renewal application element. An air quality analysis includes a number of steps from setting up the initial model, preparing a modeling protocol, performing modeling with an unknown number of iterations (runs), and final preparation of a modeling report. The level of effort for an air quality analysis is substantial, costing between $25,000 and $60,000 or more depending on complexity of the facility. DEQ should only require an air quality analysis when there is a significant increase in emissions.

DEQ's proposed rule is unclear in how the required air quality analysis impacts the air permit renewal application completeness determination. According to the proposed rules, the air quality analysis (if requested) is a required air permit renewal application element. If a facility submits an air permit renewal application without the air quality analysis, and then DEQ requires the air quality analysis, it could be interpreted that the air permit renewal application is not deemed complete. Furthermore, because a facility's ability to operate without a permit starts with the date the air permit renewal application is deemed complete, it could be interpreted that the facility may lose their application shield if DEQ requests an air quality analysis after the expiration of their current air permit.

DEQ should retain the existing Title V permit renewal application requirements. In addition, any Title V permit renewal applications submitted prior the proposed rule should not be subject to an air quality analysis or the proposed rule.

DEQ's proposed rule allows DEQ to require an expensive air quality analysis without evidence.

Example: DEQ's proposed rule allows DEQ to conduct modeling of existing sources (or require the facility to conduct modeling or monitoring) to determine whether the source's emissions will cause or contribute to an exceedance or a violation of an ambient air quality standard. DEQ should only conduct modeling or require modeling or

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monitoring when there is evidence of the source exceeding or violating an ambient air quality standards. EVRAZ encourages DEQ to develop objective criteria by which to determine when modeling would be appropriate and would reduce uncertainty in the permitting process. Additionally, if requested by DEQ, facilities should have the ability to determine if modeling or monitoring of the source will be conducted.

DEQ's proposed rule will increase uncertainty in the air permitting process.

Example: Under DEQ's proposed rule, the quantity of Type 3 Notice of Constructions will increase dramatically. Type 3 Notice of Constructions require significant pre-construction analyses and air permitting process and resources. The proposed thresholds for triggering a Type 3 Notice of Construction, referred to as Option 1 and Option 2[1] as presented in the proposed rule, are set extremely low and will essentially overwhelm DEQ with lengthy Type 3 permitting actions. Each Type 3 will require air quality analysis (dispersion modeling) and minor source emission reduction technology (MSERT) analysis. Both air quality analysis and MSERT analysis are labor intensive. The case by case MSERT analysis creates additional uncertainty on what DEQ will deem to be cost effective control technology. EVRAZ urges DEQ to reconsider what is a Type 2 NOC requirements, pull these proposed rules from this process and rethink the approach informed by meaningful stakeholder involvement. To do otherwise, will overwhelm DEQ and detrimentally harm business and industries like EVRAZ.

DEQ's proposed rule does not follow the Clean Air Act.

Example: DEQ's proposed Minor New Source Review program does not use the term "potential to emit" from the Clean Air Act but creates a new term "uncontrolled potential to emit". Under the Clean Air Act, air permitting is based on the source's potential to emit. EPA and the D.C. Circuit Court have clarified that potential to emit refers to the highest amount of pollutants that could be released into the atmosphere considering the design of the equipment, controls, and operating limitations.

DEQ is unreasonable in creating a new term outside of the Clean Air Act, which will pull a greater number of sources and projects into the proposed new Minor New Source Review program. DEQ should replace "uncontrolled potential to emit" with "potential to emit" which improve the potential to provide the intended incentive for companies to better control project emissions.

[1] While both Option set points are unnecessarily low, EVRAZ preference would be Option 2 MSER if DEQ opts to move forward with these rules without consideration to address these and others comments. Additionally, the air quality analysis and MSERT should be limited to only those pollutants that are above the MSER thresholds.

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DEQ's proposal rule will cause lengthy delays in construction approvals, and substantially increase costs, and may discourage facilities from conducting improvement projects.

Example: DEQ's proposed rule will transform the majority of projects completed by sources requiring notice to DEQ (i.e., Type 1 and 2 actions) into substantive (Type 3) actions, requiring significant pre-construction analyses and permitting. Currently, DEQ processes only a few Type 3 permitting actions each year, each one takes typically takes 9-12 months for DEQ to process. DEQ has not sufficiently explained how it can possibly process the dozens of Type 3 actions that will result from its proposed rule.

With the change to a Type 3 action, the cost to facilities will greatly increase. DEQ will increase fees from the current $720 fee (Type 2) to a minimum of $18,000 (Type 3) for each project affected by the proposal. That fee increase is separate from the significant costs that facilities will spend on the preparing the necessary elements of the proposed Type 3 Notice of Construction submittal.

DEQ's proposed rule will impact facility improvement projects, such as the installation and operation of a thermal oxidizer. Under the current rule, the installation of a thermal oxidizer would be a Type 2 permitting action. Under the proposed rule, the installation of a thermal oxidizer would likely become a Type 3 permitting action. Thermal oxidizers are used to control VOC emissions and combusts natural gas. While VOC emissions would greatly be decreased with a thermal oxidizer, because of the small increase in NO_X emissions due to natural gas combustion, the addition of a thermal oxidizer would be a Type 3 permitting action. As noted above, the Type 3 permitting actions are substantially more costly, require significant pre-construction analysis and permitting, with DEQ approval taking approximately 7-10 months additional months.

DEQ should retain the existing notice of construction structure.

DEQ has not justified the health or environmental need for the proposed rule or evaluated risks to public health that will result from it.

Example: DEQ initially sought to justify its proposal by reference to the need to protect Oregonians from violations of the National Ambient Air Quality Standards ("NAAQS"). DEQ's "Statement of Need" for the rulemaking justifies the rule by saying it "[a]llows [DEQ] more opportunities to review air quality modeling of emission increases...." However, that justification fails to acknowledge that DEQ's own analysis (set forth in an agency-issued memorandum dated March 7, 2022) did not identify any widespread NAAQS compliance problem in Oregon. Instead, DEQ's analysis concluded that in the vast majority of cases "the results don't indicate there were exceedances of the NAAQS, only that more refined modeling would be required." So,

EVRAZ

while DEQ's proposed rule will require manufacturers to conduct a lot more, expensive modeling, DEQ does not expect there to be any real issues identified.

In a nutshell, the rule might not redress NAAQS exceedances, but it will certainly raise costs (yet again) for the state's industrial sources and manufacturers. Because those same businesses provide disproportionately more well-paying jobs to people of color across the state—the communities this rule seeks to protect–we urge DEQ to act cautiously before finalizing its proposed rule. Specifically, we request that, before finalizing the rule, DEQ seek input from other state agencies (including from Oregon's Employment and Department of Administrative Services) to fully evaluate (and then mitigate) the potential economic impacts resulting from the proposed rule.

EVRAZ is dedicated to an air regulatory program that maintains clean air for all Oregonians. The proposed changes to the air rules will greatly increase the regulatory burdens without any evident environmental or public health benefit. We are concerned that, due to the extreme pace of this rulemaking, DEQ has not yet carefully consider the costs and benefits of the various changes being proposed. We have seen with other big rules, such as Cleaner Air Oregon, where DEQ lacks the resources to implement the rule or provide clear, timely guidance to facilities. We request that DEQ re-notice the proposed rule after considering the comments submitted.

Thank you for the opportunity to comment on DEQ's proposed updates to the air quality rules.

Sincerely,

Debbie Deetz Silva

Debbie Deetz Silva
Environmental Manager

CC (via email): Richard Whitman, DEQ, Richard.Whitman@state.or.us
Leah Feldon, DEQ, Leah.Feldon@state.or.us
Ali Mirzakhalili, DEQ, Ali.Mirzakhalili@state.or.us

PERKINSCOIE

1120 NW Couch Street
10th Floor
Portland, OR 97209-4128

+1.503.727.2000
+1.503.727.2222
PerkinsCoie.com

August 1, 2022

Jeffrey L. Hunter
JHunter@perkinscoie.com
D. +1.503.727.2265
F. +1.503.346.2265

VIA ELECTRONIC MAIL ONLY

Ms. Jill Inahara
Oregon Department of Environmental Protection
700 NE Multnomah Street, Suite 600
Portland, OR 97232

Re: Comments on Oregon Department of Environmental Quality Proposed Air Quality Permitting Updates Rulemaking

Dear Ms. Inahara:

Thank you for the opportunity to comment on the Department of Environmental Quality's ("DEQ") Air Quality Permitting Updates rulemaking. As you know, I served on the Rulemaking Advisory Committee ("RAC") for this rulemaking and appreciated the opportunity to participate. The comments expressed herein are on behalf of a data center client and other clients with air permits. We also support the comments submitted by Oregon Business &Industry and adopt them here by reference.

General Comments

Overall Purpose of the Rulemaking

We are still struggling with the overall need for this rulemaking. One of the purported purposes of the rulemaking was to streamline the rules and improve the permitting process. DEQ's proposed revisions add complexity, costs and increase the permitting timelines without providing any meaningful environmental benefits. DEQ has not demonstrated that the current permitting framework is not working and needs to be changed.

Deletion of the Generic Plant Site Emissions Limits ("PSELs")

DEQ should reconsider the wholesale elimination of the Generic PSELs. Generic PSELs are a win for all for the following reasons:

- Due to their conservative nature, Generic PSELs allow DEQ to ensure and clearly communicate to the public that a facility is not emitting pollutants above the Significant Emission Rates "(SERs").

- Generic PSELs strike an appropriate balance by establishing levels below the SERs that can be readily and cost-effectively implemented. Eliminating the Generic PSELs will

impose significant costs and resource burdens on both DEQ and sources without any significant environmental benefits.

- We disagree with DEQ's assertion that Generic PSELs discourage reductions of those pollutants. Qualifying for Generic PSEL status is a powerful incentive to discourage those facilities from increasing those pollutants as permitting an increase is difficult.

- We also disagree that eliminating the Generic PSELs address environmental justice concerns. There is no clear nexus between the two. Eliminating the Generic PSELs will not automatically result in less emissions.

- Attempting to substitute Generic PSELs with a calculated capacity to emit or a potential to emit ("PTE") will result in increased cost and permit complexity for DEQ staff and the source. For existing sources, eliminating the Generic PSELs will require an extensive amount of work by DEQ staff and sources as all emission inventories and permits will need major overhauls. DEQ's assumption that eliminating the Generic PSELs will result in less emissions is unsupported. A source's actual emissions are not going to change because a "paper" limit has been removed from its Air Contaminant Discharge Permit ("ACDP"). Further, eliminating the General PSELs could actually result in greater emissions for those sources that accepted Simple ACDPs with the Generic PSELs. DEQ's proposed elimination of the Generic PSELs provides no immediate environmental benefit and instead will result in a very substantial, costly, and time-consuming endeavor.

At a minimum, DEQ should consider maintaining the Generic PSELs for General and Simple permits and sources that have emission units comprised predominantly of emergency generating equipment (i.e., data centers). Many of the recent ACDPs for data centers have set the PSELs at the Generic PSELs and have accepted limits on fuel or hours of operation to avoid exceeding a Title V threshold for emergency and non-emergency operations. While those facilities can calculate non-emergency PTEs based on 100 hours of operation per engine, using this overall cap method to maintain PTEs at the Generic PSELs is a reduction in PTE for most large data centers. DEQ should reconsider and maintain the General PSELs where appropriate.

<u>Modifications to the Notice of Intent to Construct (NIC) Provisions and New "Minor source significant emission rate."</u>

While the regulated community also shares DEQ's goal of protecting air quality and addressing disparate impacts on communities of color and low-income, DEQ has not reasonably demonstrated how the proposed changes to the NIC provisions will streamline the permitting process, protect air quality or address the potential environmental justice concerns raised by DEQ. Narrowing the scope of the Type 1 changes will shift a significant number of Type 1 applications to Type 2 applications and similarly narrowing the scope of the Type 2 changes will shift a significant number of Type 2 applications to Type 3 applications. Under the current rules, Type 1 and Type 2 changes do **not** have significant air impacts and are often pollution control

projects designed to reduce a source's overall emissions or the repair/replacement of necessary equipment to allow the source to continue to operate without any material changes in permitted emissions. The proposed changes will also require DEQ to provide additional resources to review the increased number of Type 2 and Type 3 applications which will result in delays.

DEQ is proposing two options for its new "Minor source significant emission rate" which will dictate whether a NIC is a Type 2 or Type 3 change and trigger DEQ's new "Minor New Source Review." Neither option proposed by DEQ is warranted or appropriate. DEQ has set the category criteria levels too low ensuring that many current Type 2 changes will be treated as Type 3 changes. This may actually create a disincentive for many smaller sources to make any changes and continue to operate older, less efficient equipment. As most of these facilities have little actual emissions, the proposed changes seem unnecessary and wasteful of resources. While no changes to the NIC provisions are warranted, if DEQ is going to create a new "Minor New Source Review" criteria, the levels should be set no lower than 75% of the existing SERs.

Addressing Environmental Justice Issues

In the Notice of Proposed Rulemaking packet, DEQ states that one of the purposes of its proposed changes is to address environmental justice issues. DEQ has not demonstrated that a problem currently exists within any community that these rule changes would actually "fix" and has not justified the health or environmental need for the proposed rules. Many small businesses have been significantly impacted by the pandemic and have not recovered. Reducing flexibility, making modifications and permits harder and more costly to obtain will significantly impact small business and will potentially do more harm than good to many communities including low-income communities and communities of color. DEQ has not adequately addressed the economic impacts of the proposed rules on small businesses. DEQ should consult with other state agencies to fully evaluate (and then mitigate) the potential economic impacts resulting from the proposed rules.

Specific Comments

OAR 340-200-0020(63) - Excess Emissions

DEQ should not revise the definition of "Excess emissions" to include "an applicable requirement." Deviations from operating specifications, work practice standards, recordkeeping requirements, performance testing and/or or monitoring and reporting should not be considered "Excess emission" events requiring the source to immediately reduce or cease operation of the equipment or facility as required under OAR 340-214-0330. Excess emissions should be limited to events which cause an exceedance of a specific emission limit or risk limit in a permit attachment issued under OAR chapter 340, division 245. This proposed revision creates ambiguity. At a minimum, DEQ should clarify what "an applicable requirement" means.

OAR 340-210-0225(1) - Type 1 Changes

DEQ's proposed revisions to Type 1 changes would eliminate a number of small projects that have no realistic impact on compliance with the NAAQS or the regulated community. A source that wants to replace a device, process or activity that results in potential emissions of more than 10 lbs. per day (less than 2 tons per year), in the aggregate, of any regulated air pollutants would automatically be forced into a Type 2 change regardless of whether the source's actual emissions are well below its PSEL, regardless of compliance with the NAAQS and regardless of the regulated air pollutants. This is going to result in increased cost for DEQ staff and the source and is wasteful of resources. At a minimum, DEQ should increase the Type 1 change threshold to a potential increase in less than or equal 5 tons per year for criteria pollutants. To qualify for a Type 1 change, sources will still need to demonstrate that the increase in emissions will not result in an exceedance of the source's PSEL.

DEQ should revise the criteria under 0225(1)(a)(C) to "… an increase of emissions from the source above any PSEL **by more than the *de minimis* emission levels defined in OAR 340-200-0020**." This is consistent with the current Type 1 changes that allow de minimis increases.

DEQ should revise the list under 0225(1)(b) to include the construction or replacement of new emergency generators and/or fire pump engines provided there is no increase in emissions from the source above any PSEL by more than the *de minimis* emission levels. While the proposed list includes stationary internal combustion engines having a rated capacity of less than 60 horsepower output, this is too limiting. Such emergency generators and/or fire pump engines are subject to applicable federal NSPS or NESHAPs standards and should be subject to only a Type 1 NIC.

OAR 340-210-0225(2) - Type 2 Changes

As noted above, the proposed "Minor source significant emissions rates" for determining Type 2 and Type 3 changes are too low. Type 2 changes should allow increases up to 75% of the existing SERs provided the other criteria are met.

DEQ should also revise the criteria under 0225(2)(b) to "… an increase of emissions from the source above any PSEL **by more than the *de minimis* emission levels defined in OAR 340-200-0020**. This is consistent with the current Type 2 changes that allow de minimis increases.

OAR 340-210-0225(3) - Type 3 Changes

DEQ should also revise the criteria under 0225(3)(A)(b) to "… an increase of emissions from the source above any PSEL **by more than the *de minimis* emission levels defined in OAR 340-200-0020** . . .." This is consistent with the current Type 3 changes that allow de minimis increases.

OAR 340-210-0240(1)(b)

For Type 2 changes, DEQ should be required to conduct a completeness review within 15 calendar days of receipt of a notice and the applicable fees and any request for additional information must be sent within 30 calendar days after DEQ receives the notice and applicable fees. DEQ should not be able to wait till the end of the 60-day approval period to make up a deficiency and delay the automatic approval.

OAR 340-210-0240(4)

DEQ is proposing an expiration date on construction approvals of 18 months with one 18-month extension for good cause. Construction approvals for minor sources should not be treated as PSD permits or major modifications. There could be equipment delays, construction delays and other events and circumstances (on-going pandemics) outside of the facility's reasonable control. Sources should have at least five years to implement the approved change.

OAR 340-216-0020(2), 0025(7), 0056(2) and 0060(E)

If a source otherwise qualifies for a General or Basic Permit, DEQ should not have the authority, based on undefined and subjective criteria, to decide a source needs a Simple or Standard Permit. DEQ has failed to justify why these revisions are necessary or how these revisions address any of proposed purposes for the rulemaking.

OAR 340-216-0040

DEQ's proposed revisions to the application requirements under (1)(a)(O) for new permits require a control technology and analysis and air quality analysis demonstrating that the source's emissions will not cause or contribute to an exceedance or violation of an ambient air quality standard. DEQ should clarify that this requirement may not be applicable to all types of ACDPs. A source submitting a new application for a Basic, General or Simple ACDP should not have to submit a control technology and analysis and air quality analysis where the PTE is below 75% of the SERs. As drafted, the application requirement is confusing. If required at all, this analysis should be limited to applications for new Simple ACDPs where the PTE is 75% or greater of the SER and Standard ACDPs.

OAR 340-216-0054

We support DEQ's proposed revisions to the Short-Term Activity ACDPs.

OAR 340-216-0064(c), 0066(c) and OAR 340-218-0050(b)

In each of these sections, DEQ is proposing a new provision regarding additional permit conditions that DEQ may include in its sole discretion. Presumably, this is to address sources that could have exceedances of the short-term NAAQS. As discussed during the Rulemaking Advisory Committee meetings, modeling a potential exceedance of the short-term NAAQS and an actual exceedance of the short-term NAAQS are not the same. A source with a modeled exceedance should have the ability to demonstrate through monitoring that there are no actual exceedances of the short-term NAAQS before additional permit conditions are imposed. A source should also have the ability to propose permit conditions in situations where the modeling shows an exceedance of the short-term NAAQS and the source declines to conduct monitoring. DEQ should clarify that these provisions apply to **actual** (not modeled) exceedances of an ambient air quality standard.

OAR 340-216-0082 and OAR 340-224-0030(4)

DEQ should not incorporate into the minor source permitting program requirements to "commence construction" within 18 months of permit issuance or risk termination if the owner or operator does not continuously engage in construction activities or fails to complete construction within a certain a period of time. These are EPA NSR concepts not applicable to a minor source permitting program. There may be multiple reasons including global supply chain and economic factors why a minor source obtains an ACDP but chooses to delay construction. Minor source permits are not PSD permits where DEQ needs to be concerned about increment consumption. Since 2020, many projects have been put on hold due to covid-19, the uncertainties with the economy and the on-going hostilities in Ukraine which has disrupted the global supply chain. Having such a provision and requiring owners and operators to submit extension requests for **minor sources in attainment areas** is not needed and does not advance any of the enumerated purposes for the rulemaking.

OAR 340-224-0300

Under the list of presumptive Minor Source Emission Reduction Technology ("MSERT"), DEQ should include emission units subject to a federal NSPS or NESHAPs. For those emission units, a source should not have to further evaluate a MSERT.

OAR 340-226-0140(1)

In the proposed revisions, DEQ can complete, or require a source to complete, modeling or monitoring to determine whether the source's emissions are causing or contributing to an exceedance or a violation of an ambient air quality standard. DEQ should only require such modeling or monitoring if there is a reasonable basis to conclude the source's actual emissions are causing or contributing to an exceedance or a violation of an ambient air quality standard. Sources that have Basic, General or Simple Permits should not be subject to additional modeling

or monitoring absent actual evidence that the source's actual emissions are causing an exceedance of the NAAQS. Finally, sources should first have the opportunity to model whether exceedances have occurred before being required to conduct actual monitoring.

Conclusion

I appreciate the opportunity to offer comments on the Air Quality Permitting Updates Rulemaking. Please contact me if you have any questions regarding these comments.

Sincerely,

Perkins Coie LLP

Jeffrey L. Hunter
Partner

cc: by email:

Richard Whitman (richard.whitman@deq.oregon.gov)
Leah Feldon (leah.feldon@deq.oregon.gov)
Ali Mirzakhalili (ali.mirzakhalili@deq.oregon.gov)

August 1, 2022

Oregon DEQ
Attn: Jill Inahara
700 NE Multnomah St., Suite 600
Portland, OR 97232-4100
2022.AQPermits@DEQ.oregon.gov

RE: Data Center Industry Comments in Response to Proposed Air Quality Permitting Updates 2022

Dear Ms. Inahara:

I am writing on behalf of the Data Center Coalition (DCC), a trade association representing leading data center owners and operators, to offer comments related to the Oregon Department of Environmental Quality's (DEQ) proposed Air Quality Permitting Updates 2022.

Oregon is home to many data center facilities. The state's data centers provide essential infrastructure that supports distance learning, remote work and collaboration, telehealth, video conferencing, exchange of news and urgent information, e-commerce, entertainment, and many other technologies central to our daily lives. Our teams live and work in the state, and the data center industry very much supports the need to protect air quality. We appreciate the important role DEQ has in ensuring that air quality rules keep Oregon's air clean.

After reviewing documents from the Advisory Committee meeting, draft rules, fiscal impact, and other materials, we are very concerned about DEQ's proposals to overhaul the existing air permitting framework. In general, we are concerned that the proposed changes will add permitting complexity, extend already lengthy permitting timelines, and create additional staff and other resourcing burdens on your agency (e.g., for air dispersion modeling for individual sources).

We are concerned the draft rulemaking presents complex and expensive solutions to address perceived issues that are not well defined or substantiated. Based on our review, the record does not demonstrate how the proposed changes will produce meaningful environmental benefits for Oregonians, particularly considering the significant regulatory costs involved.

We respectfully request that the DEQ take additional time to allow for a rulemaking process that provides opportunity for DEQ to: i) work with impacted stakeholders to better understand and define the perceived air quality issues that initiated this rulemaking, and ii) to respond to those issues by fashioning cost-effective rules that protect the most vulnerable Oregonians while enabling responsible Oregon businesses to thrive.

Thank you again for the opportunity to comment. Please feel to contact me by email at josh@datacentercoalition.org or by telephone at (571) 498-7310 if I can address any questions.

Sincerely,

Josh Levi
President
Data Center Coalition
www.datacentercoalition.org

Roseburg

www.roseburg.com
P.O. Box 1088
Roseburg Oregon 97470
Tel: 1-800.245.1115

August 1, 2022

VIA EMAIL

Jill Inahara
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232
2022.AQPERMITS@DEQ.OREGON.GOV

Re: Comments on 2022 Proposed Updates for Oregon Air Quality Permitting Rules

Dear Ms. Inahara:

Roseburg Forest Products Co. (Roseburg) owns and operates five Title V major source facilities employing 1700 employees in the State of Oregon, and has proudly operated in Oregon since 1936. Roseburg maintains an extensive network of pollution control equipment to comply with all Federal, State, and Local air quality requirements. Roseburg also manages a robust environmental management system in order to go above and beyond regulatory compliance. Roseburg has prepared the following comments on the Air Quality Permitting Rule Revisions because of the extensive impacts these rules could have on its Oregon-based facilities. In addition to the comments below, we would like to strongly emphasize that we support the comments submitted by Stoel Rives on behalf of a broad coalition of Oregon businesses and manufacturing associations.

1. ***The proposed increase of National Ambient Air Quality Standards (NAAQS) modeling is fundamentally flawed and DEQ should therefore not move forward with the proposed change.***

Several times throughout the draft proposal, DEQ indicates that NAAQS modeling will be used to determine if sources are contributing to a monitored NAAQS exceedance. Facilities intentionally model maximum worst-case throughputs. When these conservative assumptions are paired with worst-case weather conditions, modeled NAAQS exceedances do not necessarily correlate to any actual NAAQS monitoring exceedances. These modeled scenarios are theoretical worst-case computer models. The goal of almost all air permit related modeling is to proactively mitigate off-site impacts and engineer better dispersion characteristics for a facility.

The new language throughout the rules stating a source may "contribute to an exceedance" is overly vague and indicates the intent of the rule changes are simply to find violators. If there is a significant wildfire in vicinity of a facility and the NAAQS monitoring shows exceedances, for example, every source in the area including natural sources would be contributing to the NAAQS exceedance. Furthermore, in DEQ's own analysis, (DEQ-issued memorandum dated March 7, 2022) the results did not indicate that there were exceedences of the NAAQS. In practical terms, the proposed rule language will do very little to protect Oregon's air quality, but will require manufacturers to conduct extensive, expensive, and time-consuming air quality modeling. **DEQ should not move forward with the proposed rules as they pertain to NAAQS modeling unless and until data exists to justify the need for such regulation.**

2. ***The proposed requirements for modeling places undue burden on the both DEQ and permittees.***

Roseburg is concerned with the significant increase in permitting actions that will require modeling. The DEQ's Rule Revision Proposal states that Significant Emission Rates (SER) "may not be protective of the environment" because the DEQ assumes the SER are long term standards. This has led the DEQ to propose lower SER for minor projects. The original new source review SER for PM and SO2 were actually set according to the EPA's 2007 proposed PM2.5 rulemaking using a short-term methodology "the significant emissions rates for PSD applicability purposes…resulted in ambient impacts less than 4 percent of the 24-hour standards for PM and SO2 were sufficiently small so as to be considered de minimis". The DEQ also asserts in its draft document that SER were established before 1-hour standards were set. However, there are only 1-hour NAAQS for NO2 and SO2. And the EPA's PM2.5 rulemaking established a new SER for PM2.5 and reasserted 40 tons per year was an acceptable SER for NOx, SOx, and VOC as precursors for PM2.5, which has a 24-hour NAAQS standard.

The SER are meant to create a threshold to justify the expense and burden of ambient air modeling. Roseburg's experience with Oregon and other States' modeling requirements are that ambient air modeling should be reserved for significant projects that have the lead time, capital, and resources to conduct ambient air quality analysis and subsequent control device installations or stack modifications, if needed.

Modeling is a resource-demanding exercise and excessive use of air modeling for modifications of minor projects will discourage investment in Oregon, including projects that include installing pollution control equipment, which has cascading effects on the communities where industries provide stable employment. The resources and review time of modeling minor projects would create a permitting backlog at Oregon DEQ that will delay major capital projects. **Roseburg strongly recommends Oregon DEQ adopt a program that focuses on**

technology review for minor projects to avoid creating an overly burdensome criteria pollutant modeling program.

Roseburg also has experience in other jurisdictions with short-term modeling and has found short-term modeling to be extremely troublesome for the most benign of sources. **Roseburg strongly recommends exemptions for natural gas boilers and other common minor projects that are essentially best available control technology at conception. Roseburg also recommends exempting emergency generators or other life-saving equipment from this process as extended stacks or control requirements beyond NSPS and NESHAP requirements may jeopardize reliability of equipment designed to protect human life**.

3. ***Modeling for SO_2 should allow exemptions for sources known to be insignificant contributors.***

As of April 30, 2022, the US EPA indicates Oregon only has two counties (Lane and Klamath) with attainment issues related to PM-10 and PM-2.5. From an efficiency and effectiveness perspective, any rule changes that are meant to target pollutants should focus on pollutants contributing to ongoing criteria pollutant challenges for the State. For example, Roseburg's experience with SO_2 modeling is that it is only a problematic pollutant for certain types of sources. **Roseburg recommends DEQ restrict short-term modeling to known major contributors of SO_2 or allow facilities to request exemption from this requirement to reduce administrative burden on facilities that will never approach modeled SO_2 thresholds**.

4. ***DEQ's proposed changes to the Notice of Construction (NOC) rules complicate a permitting system that has been well defined and successfully implemented for decades, and will cause unfounded delays in construction approvals.***

Contrary to DEQ's claim that the proposed rule will simplify the permitting process for most projects, as currently written the propose rule will grossly limit the number of projects that would qualify as Type 1, and errantly force sources to use Type 2 and Type 3 permitting actions. This will result in tremendous burden on both permittees and currently stretched-thin agency staffing. The proposed changes will cause a substantial increase in administrative requirements and timelines of permitting for sources wanting to perform routine maintenance, repair, and like-for-like replacements, which should all be exempted from the NOC requirements, since by definition these actions are not modifications. Similarly, the installation of pollution control devices for reducing pollution will likewise be delayed under the proposed rule changes. This is not a wise use of industry resources and will discourage beneficial, emission reducing and efficiency-increasing projects, at the same time agency resources will be overwhelmed. **The changes to the NOC rules should be removed from the proposed rules.**

5. ***The proposed rule reverses decades of Oregon's successfully implemented air quality permitting program, eroding compliance certainty.***

Oregon's air quality rules were revised in 2000, and again in 2015, each revision learning from experience and improving upon the previous version. The proposed rule aims to undo many of the successful elements of the current air permitting program. For example, DEQ is proposing to require many existing sources to comply with a brand-new control technology program called Minor Source Emission Reduction Technology (MSERT). This program has no precedent in Oregon, was not authorized by the legislature, and could cause sources to suddenly be operating with technologies that do not comply. Roseburg has made substantial investments over the past decades to comply with Oregon's air quality program. **DEQ should honor those investments and the MSERT rule language should be removed from the proposed rules.**

Roseburg is dedicated to an air regulatory program that maintains clean air for all Oregonians. But we cannot support the proposed changes that will increase regulatory burdens without any evident environmental or public health benefit. We are concerned that DEQ has not yet carefully consider the costs and benefits of the various changes being proposed, due to the rushed and forced pace of this rulemaking. We request that DEQ re-notice the proposed rule after considering these comments, and those of the larger coalition.

We appreciate this opportunity to comment on DEQ's proposal.

Sincerely,

John Myers
Director of Environmental, Health, and Safety
Roseburg Forest Products Co.

cc by email:

Richard Whitman (richard.whitman@state.or.us)
Leah Feldon (leah.feldon@state.or.us)
Ali Mirzakhalili (ali.mirzakhalili@state.or.us)

Northwest Pulp & Paper
ASSOCIATION

Sent via: 2022.aqpermits@deq.oregon.gov

August 1, 2022

Oregon Dept. of Environmental Quality
Attn: Jill Inahara
700 NE Multnomah St., Room 600
Portland, OR 97232-4100

RE: **Oregon Department of Environmental Quality proposed Air Quality Permitting Updates for 2022**

Ms. Inahara,

Thank you for the opportunity for the Northwest Pulp & Paper Association (NWPPA) to comment on Oregon Department of Environmental Quality's (DEQ) Air Quality Permitting Rules Update for 2022.

INTRODUCTION

NWPPA represents ten member companies and 14 mills in Oregon, Washington and Idaho, five of which are located in Oregon and are in more rural communities. Our members are state and federally recognized essential businesses who keep vital paper products available across the United States and abroad. Without fail, our Oregon mills' essential workers have been making vital paper products we all use every day to help fight against COVID-19. Oregon mills provide 4,000 union-backed, family wage jobs in some of Oregon's more rural, economically distressed communities. Mills provide a 3:1 job multiplier and are often the single largest taxpayer in these communities, a large portion of which is distributed as funding for schools and emergency services. Our members hold various permits issued by DEQ including permits for Title V Air Operating Program and the Air Contaminant Discharge Program.

NWPPA members are at the forefront of Oregon air quality improvement efforts. Our members have embraced technically advanced and scientifically sound controls on air emissions over the past 20 plus years. We are proud of our dedication to efficient and environmentally sound processes and reduction of emissions over time. We are committed to the hard work and discipline it takes to be contribute to our communities.

NWPPA has long-standing-stakeholder participation in numerous DEQ advisory committees including groups on establishing regulatory programs, administrative rules and program improvement efforts. Our staff and members have participated in the development of rules in previous DEQ Rulemaking Advisory Committees (RAC). Most recently, NWPPA President, Brian Brazil, participated in DEQs Air Quality Permitting RAC.

NWPPA and its members appreciate the elements of the proposed rule where previous comments have been considered and addressed. We acknowledge DEQ's goal to adopt rules that ensure Oregon's businesses are protective of short-term air quality standards. NWPPA's principle concerns however relate to DEQ's addition of numerous and duplicative requirements, often divorced from the concerns being addressed. For example, while we acknowledge that modeling short-term emissions makes sense, DEQ takes a shotgun approach that requires a facility to conduct modeling over-and-over again without a link to increased emissions or risk. DEQ's proposed changes to the Notice of Construction (NOC) requirements also put a significantly increased amount of responsibility on DEQ staff without a direct relation to increased or decreased emissions from a facility. Importantly, DEQ can achieve the goals of this rulemaking without creating significant permitting uncertainty, program redundancy, as well as increased regulatory burden and costs.

GENERAL COMMENTS

<u>NAAQS Air Quality Analysis</u>

NWPPA appreciates ODEQs inclusion of estimated costs associated with conducting this type of analysis in the fiscal and economic impact portion of the proposed rule package. These costs are significant and thus warrant clarity and specificity in how and when they might be applied in the proposed rule changes.

While NWPPA acknowledges the benefits and value of performing air quality analyses (i.e., dispersion modeling), the draft rules do not provide sufficient certainty or predictability as to when and how a modeling requirement would be applied to a permit modification or ACDP renewal. NWPPA suggests DEQ provide certainty in the form of a clear and streamlined process for modeling that only requires modeling for major modifications subject to New Source Review and actions that increase emissions at a facility above established thresholds, or at a minimum requires repeat modeling only in specific circumstances moving forward under reduced or simplified standards. As proposed, OAR 340-216-0040(3)(d) would grant DEQ the discretion to require modeling for any permit modification, even if the modification does not include an increase in emissions or otherwise suggest a threat to NAAQS attainment. The same would be true at permit renewal. As environmental justice considerations are a large factor in DEQ's rulemaking process, DEQ should critically consider that additional process requirements affect our members' (often the largest job creators in the community) ability to plan for the future and to sustain or increase jobs. When a mill cannot predictably explain the requirements or timeline for a permit action (or when permitting is overly expensive or onerous) that often translates into funding for projects going elsewhere. DEQ's proposal to include repeated air quality analysis subverts its stated environmental justice goals. NWPPA suggests simplifying the criteria for when modeling is required to accommodate these environmental justice principles and to provide mills more certainty and ability to plan for the significant expenditure of the technical resources, time and costs required to perform modeling analyses.

NWPPA suggests that after initial modeling is done at a facility, DEQ should reduce the circumstances triggering repeat modeling only to: (a) there is a reasonable basis to believe that a NAAQS exceedance might occur and (b) the source is requesting an increase in plant site emission limits. Changes that neither threaten a NAAQS exceedance nor increase emissions should not trigger additional modeling requirements.

NWPPA also proposes reducing the circumstances triggering repeat modeling by limiting modeling for new or modified emission units *to pollutants that increase above an established significance threshold*, and provide exemptions for all project emissions increases below *de minimis thresholds*, to avoid

modeling for pollutants with only minor increases resulting from the project. The language of the proposed rule suggests a Type 3 change triggers modeling for all criteria pollutants. Our proposed change provides clarity, is consistent with the current short-term NAAQS modeling guidance, and would be similar to current Type 4 changes where only pollutants that exceed the netting basis by more than the SER trigger modeling.

Similarly, DEQ should consider allowing abbreviated modeling protocols and reports for subsequent modeling demonstrations that only require identifying items that have changed since the last demonstration. At a minimum, DEQ should streamline the modeling process by developing modeling resources available to facilities and consultants. For example, presumptive meteorological datasets for use anywhere in the state and co-contributing source inventories. Other states have these resources available, and it can save significant time and money for model development.

Two stated goals of this rulemaking are to increase permitting issuance efficiency and to increase regulatory certainty. Given existing staff constraints around modeling requirements for Cleaner Air Oregon (CAO), it is beneficial to DEQ staff to specify when the additional component of modeling would apply and when the proposed modeling requirement would be required from an applicable source. We propose DEQ clarify that the initial modeling requirements under these rules will occur at the next permit renewal, unless the renewal occurs within 18 months (or a comparable time period) of the effective date of the proposed rule.

Minor Source Emission Reduction Technology (MSERT)

NWPPA has significant concerns relating to the Minor Source Review proposal (OAR 340-224-0300) and scope of the MSERT program (OAR 340-224-0300(1)), the first of which is that these are concepts that DEQ has included in the proposed rule without advanced discussion or consultation with the Rulemaking Advisory Committee (RAC). A significant amount of time and resources were allocated to the facilitation of a thorough and inclusive RAC process, and we struggle to believe that the proposal outlined in this section is reflective of DEQs stated intent and the feedback offered by many RAC members.

While we appreciate clarification that the program is limited to NOx, VOC, PM_{10}, $PM_{2.5}$ and SO_2, OAR 340-224-0300(1)(c) states that devices or activities that emit CO, VOC or fugitive particulate are exempt from Minor Source New Source Review (NSR) program. There is a lack of clarity in how VOC is subject to MSERT but activities emitting VOC are exempt from minor source new source review. A clarification is needed to understand when VOC emissions are exempt from MSERT. Similarly, condensable PM is not responsive to controls and fugitive emissions of any covered pollutant should not be subject to minor source NSR or MSERT. We would suggest that DEQ clarify that MSERT only applies to filterable PM.

Additionally, if an existing source seeks a permit modification, OAR 340-224-0300(1)(b) would require that source to undertake ambient air modeling for all pollutants or activities with an uncontrolled potential to emit equal to or greater than the minor source significant emission rate (SER) and the MSERT for all individual devices or activities with uncontrolled potential to emit equal to or greater than the SER. It is unclear whether the scope of modeling or MSERT would be limited to the emission units being physically modified. As written, the proposed rule does not tie the modification application to the device or activity with uncontrolled potential to emit greater than the minor source SER, nor does it define what devices or activities at a facility must undergo MSERT. Without understanding DEQs intent for this program, we believe that a revision is necessary to clarify that this section of the proposed rule would only apply to those emissions units being physically modified.

Lastly, existing sources have made and continue to make significant investments to comply with Oregon's air quality program and the MSERT program as proposed has the potential to render

technologies in use by existing sources non-compliant. This section of the proposed rule was developed without consulting RAC members representing existing sources and does not offer a reasonable or comprehensive representation of existing and potential control technologies. We ask that DEQ reevaluate and clarify the parameters of the minor source NSR and MSERT processes.

Notice of Construction (NOC)

The proposed changes to criteria for types of construction and modification are significant. Presently, DEQ staff have difficulty processing modifications under the current rules. The proposed rule changes significantly increase the burden of routine maintenance and repair for existing sources, as well as DEQ staff's workload (without an increase in protection to the environment).

Sources must be able to make timely changes. The proposed changes are likely to push projects into higher modification categories, which will take longer to process for both DEQ and the permitted source. The revisions to Type 1 can reasonably be expected to increase efficiency for processing, but the revisions to Types 2 and 3 do not. The scope of Type 2 NOCs is too narrow and the subsequently increases the number of project types that would fall into Type 3 NOCs. Additionally, the proposed NOC changes would significantly increase the fees associated with Types 2 and 3 NOCs. At a time when many industries are struggling to hold off the dangers of leakage to states and countries with far less environmentally conscious regulatory practices, it would be imprudent for DEQ to continue with the proposed changes. NWPPA suggests DEQ move forward with proposed changes to Type 1, but leave Types 2 and 3 unchanged.

Additionally, processes for timelines such as the 60-day approval clock should be clarified in order to maintain consistency and achieve predictability. The proposed revisions to OAR 340-210-0240(1)(b) should be revised to be more consistent with the statutory protections of ORS 468A.055 that mandate a pause and restart of the 60-day approval clock upon a source's submittal of the requested information.

Lastly, NWPPA proposes limiting the applicability of emission increases to criteria pollutants rather than regulated pollutants. HAPs and TACs are regulated pollutants but do not have established SERs. Therefore, any project that includes an increase in HAPs or TACs would be above the SER and regulated as a Type 3 change. HAPs and TACs are already regulated under Cleaner Air Oregon, and thus NWPPA would seek clarification as to why it is necessary to address these regulated pollutants in this rulemaking.

SPECIFIC COMMENTS

Technical Changes

NWPPA provides the following suggestions and/or comments on the proposed redlined draft of proposed changes to the OAR, which are arranged by section reference(s) in the draft.

OAR 340-200-0020(84) and 340-220-180(1)

The proposed change to 340-200-0020(84) and 340-220-180(1) from "postmarked" to "received" is both inappropriate and a substantial change. Simply because DEQ has created the Your DEQ On-line (YDO) system that doesn't have the ability to account for postmarks is absolutely the WRONG reason to suggest this change. This change is inconsistent with federal EPA methods and protocols for acceptable submittals under various CAA regulations. DEQ should not expect sources to submit fee payments for substantial permit fees online. DEQ also must not ignore postmarks that prove large checks for fees were submitted on time.

If DEQ must create language that addresses YDO, language similar to how EPA recognizes timely submissions in 40 CFR Part 70 would be the appropriate way to accomplish this. Our suggested language (if DEQ continues to believe a change must be made to accommodate YDO payments is required: "…postmarked or time stamped on an electronic submission through YDO...".

OAR 340-208-0110(1) and 340-234-0210(4)

The proposed addition of 340-208-0110(1)(b) does not actually include all the sources exempt from the rule under 340-234-0210(4). As such, 340-208-0110(1)(b) should read: "Kraft mill" sources regulated for visible emissions (i.e. opacity) under 340-234-0210(4)". "Emissions from each Kraft mill source" are regulated for opacity under 340-234-0210(4) and, therefore, should not be included under 340-208-0110. Clarification at 340-234-0210(2)a(c) that Recovery furnaces are exempt from the opacity standards at 340-208 is a good improvement. DEQ should also clarify at 340-234-0210(4) that "Kraft mill" sources are exempt from the opacity standards at 340-208.

OAR 340-210-0230(1)(o)(B)

The proposed addition of section (B) requiring a source and DEQ to perform an artificially created Land Use Compatibility analysis is excessive and unnecessary. If the local planning jurisdiction does not require a review, which in itself constitutes approval, then recognition that there is no need to review the project is by default, an approval. The same applies for the planning jurisdiction declining to review the application. That in itself is acknowledgment by the planning jurisdiction that review is unnecessary. NWPPA opposes the addition of this section to the rules.

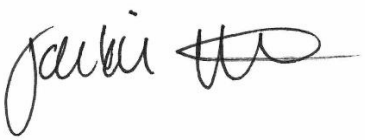
CONCLUSION

In addition to the above comments, NWPPA supports comments presented by Tom Wood and Geoffrey Tichenor of Stoel-Rives LLP for the coalition of businesses that they represent. NWPPA is a member of that coalition, so those comments should be included in our comments as well.

As previously stated, NWPPA members are committed to efficient and environmentally sound processes and reductions in emissions over time that maintain the clean air of Oregon. Rule updates that streamline processes and reduce inefficiencies are a necessary component of these efforts. However, an increase in regulatory burdens without a commensurate or meaningful increase in environmental protection and overall emissions reductions is counterproductive.

Again, NWPPA appreciates the opportunity to provide comments on ODEQs proposed Air Quality Permitting Rule Update for 2022. Please do not hesitate to reach out with questions about these comments.

Sincerely,



Jackie White
Director of Regulatory & Technical Affairs
Northwest Pulp & Paper Association

760 SW Ninth Ave., Suite 3000
Portland, OR 97205
T. 503.224.3380
F. 503.220.2480
www.stoel.com

THOMAS R. WOOD
D. 503.294.9396
tom.wood@stoel.com

August 1, 2022

VIA EMAIL (2022.AQPERMITS@DEQ.OREGON.GOV)

Jill Inahara
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232

Re: Comments on Oregon Air Quality Permitting Updates 2022

Dear Ms. Inahara:

We are writing as the spokespersons for a broad coalition of business and manufacturing associations including Oregon Business & Industry and many others (the "Coalition"). Collectively, the Coalition represents approximately 1,700 businesses in Oregon that employ approximately 300,000 workers, including nearly 75,000 workers in the manufacturing sector. The Oregon businesses making up the Coalition hold a variety of air permit types and are covered by the regulations arising from ORS 468A. These companies have tremendous experience implementing Oregon's air quality regulatory program, and they stand for a program that is successful for all Oregonians. A successful air quality program is one that is fair, predictable, based on good policy and makes efficient use of agency and regulated entity resources. It is certainly DEQ's goal as well to only revise the existing rules if the changes further those objectives and result in a program that has a fair amount of certainty of outcome. With those thoughts in mind, we appreciate this opportunity to comment on the proposed changes to the Oregon air permitting program.

The Coalition has been deeply involved in the Rulemaking Advisory Committee ("RAC") process and has presented comments after each meeting. We wish to express our appreciation to the Department for those aspects of the proposed rules where our prior comments have been considered and addressed. The comments below focus on aspects of the proposed rules where we continue to have concerns about the ideas being considered or the language employed. Our comments are not necessarily presented in order of importance, but, rather, follow general themes established in the RAC process.

Construction Approvals

Several of our comments relate to construction approval requests which we generically refer to here as Notice of Construction ("NOC") regardless of whether they arise in the ACDP or Title V program.

Clarity of NOC rules (OAR 340-210-0205)

The proposed language in OAR 340-210-0205 would benefit from edits to enhance its clarity. OAR 340-210-0205(1) states that the NOC requirements "apply to the following." Then, -205(1)(a) and (1)(b) break out applicability by new sources and existing sources. Our concern is that while -205(b) says that the rule applies to existing sources "undertaking any of the following [subsections below]" that statement does not identify projects that could be undertaken without DEQ approval. Therefore, we suggest that the rule language be revised so that one can read the rules and have a clear sense of what DEQ intends for existing source NOC triggers in -0205.

Replacements as NOC trigger (OAR 340-210-0205)

The Coalition is concerned that the proposed language in OAR 340-210-0205(1)(b)(B) contradicts DEQ's longstanding approach to construction approvals and violates state statute. The existing rules apply to "modifications" at existing sources. "Modification" is a defined term that excludes "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." OAR 340-200-0020(93)(c). By deleting the word "modifications" from OAR 340-210-0205(1)(b), the Department appears to be proposing to require NOC approval prior to routine maintenance, repair, and like-for-like kind replacements. This interpretation is more strongly suggested by the proposed addition of new language (OAR 340-210-0205(1)(b)(B)) stating "No person may replace a device or activity at an existing source without first notifying DEQ in writing."

There are many policy reasons not to make the proposed rule changes. For one, the proposed changes will create tremendous additional burden on sources performing routine maintenance and replacements, which are undertaken nearly continuously, especially at large sources. It will also be hugely challenging to implement, as sources have – for many years – operated within a regulatory system in which these activities could be undertaken without construction approvals. Routine maintenance, repair, and like-for-like kind replacements should be explicitly exempted from the NOC requirement. The state's air quality goals are not served by focusing DEQ attention on trivial, everyday projects or making it more burdensome for sources to maintain their equipment.

There is also a statutory bar on DEQ making the proposed changes. ORS 468A.055 is the basis for DEQ's authority to require preconstruction notices. That statute expressly states that "construction" includes "installation and establishment of **new** air contamination sources." ORS 468A.055(7) (emphasis added). The statute does not include authority to require notices for maintenance of existing equipment. This is further clarified later in this same section where the Legislature states:

> Addition to or enlargement or replacement of an air contamination source, or any major alteration or modification therein that **significantly affects** the emission of air contaminants shall be considered as construction of a new air contamination source. ORS 468A.055(7) (emphasis added).

As can plainly be seen from this statutory language, in order for DEQ to require preconstruction notice/approval, the Department must conclude that the alteration or modification to an existing source significantly affects air emissions. Routine maintenance, repair and replacement clearly does not meet this threshold and so, as a matter of law, DEQ cannot require notice or approval before it is undertaken.

We also repeat the comment above that the flow through the proposed language in this section does not read clearly and would benefit from revision. This includes a disconnect between the proposed language in -205(1)(b)(B) saying that sources must notify DEQ in writing as opposed to stating that a triggering source must undergo the NOC process.

Air pollution control devices as NOC trigger events (OAR 340-210-0205(1)(b)(C))

The Coalition is concerned that the Department is proposing to change OAR 340-210-0215(1)(b)(C) to require NOCs for air pollution control devices not relied upon to comply with emission limits. We appreciate the addition of a definition of "air pollution control device" in response to comments made in the RAC process. However, regulated sources use a broad variety of air pollution control devices that are not relevant to air permit compliance or compliance with any standards. For example, HVAC systems include filters that remove air contaminants such as pollen and other atmospheric particulates. Also, some sources use oxidizers on certain processes to minimize odor, but such devices are not required or accounted for in the source's permit or emissions inventories. These HVAC system filters and oxidizers are not "inherent process equipment" but are clearly removing pollutants. Thus, they would be subject to NOC requirements under the proposal. However, it serves no benefit for DEQ to require NOCs for such equipment and it deters sources from employing "off-permit" improvements. Evaluating such NOCs will also overburden already over-stretched DEQ staff without a corresponding environmental benefit.

DEQ will exceed its authority if it proceeds, as proposed, to remove the language limiting the NOC program to devices used to comply with air permit emission limits and standards for regulated air pollutants. If an air pollution control device is not related to compliance with air permit emission limits or standards, DEQ lacks basis or authority to add regulatory requirements. Where a facility is not using an air pollution control device to comply with air permit emission limits or standards, the facility should not have to file a NOC before constructing or modifying such a device.

Presumptive Type 1 actions (OAR 340-210-0225(1))

The Coalition supports the idea of identifying certain actions that are presumptively classified as Type 1 NOCs and appreciates the revisions made to the listings since the last RAC meeting. It appears that some, but not all, of the exemptions derive from the Puget Sound Clean Air Agency ("PSCAA") found at PSCAA Regulation 1, Section 6.03(b) and (c) (https://pscleanair.gov/DocumentCenter/View/339/1-6-PDF?bidId=). We strongly support complete adoption of the list of exempted activities found in the PSCAA regulations.

We also urge the Department to remove the requirement from the proposed 340-210-0225(1)(b) that in order to qualify for an exemption, the project at issue cannot increase "production or throughput in other unchanged portions of the facility" or "increase[e] the overall efficiency of the operation." These qualifications do not reflect on the potential emissions increase resulting from the project being contemplated and introduce a large degree of subjectiveness to the assessment of whether a project is a Type 1 change. DEQ is proposing an approach more stringent than that used in other states such as Washington where a qualifying project is exempt from the NOC requirement regardless of whether it makes the source more efficient. DEQ is proposing to require that companies wanting to make a change within one of the enumerated categories still need to file a Type 1 NOC while other jurisdictions require no filing for such changes. The approach taken in Washington and elsewhere is simply that, if a project fits into an exemption category, a NOC should not be required. That same approach should be adopted in Oregon without the need to demonstrate that the project does not affect unchanged portions of the facility or that the project will not increase the efficiency of the operation (a goal that the Oregon Legislature has directed DEQ to promote, not hinder).

While the Coalition supports the idea of having certain non-categorical changes qualify as Type 1 NOCs based on emissions, the proposed language is much too restrictive to be meaningful or applicable. We recognize the practicality of the requirement that in order to qualify as a Type 1 change, the change must not increase emissions over a PSEL or result in emissions above the netting basis in excess of a significant emission rate ("SER"). However, we urge the Department to eliminate the qualifications proposed in OAR 340-210-0225(1)(a)(A) and (B) which would require a source to aggregate all regulated air pollutants with potential to increase as a result of the project and then compare them to a 10 pound per day pre-control and 10 pound per day post-control threshold. This should be altered for several reasons.

First, there is no basis to aggregate different regulated pollutants. If the intent was only to aggregate each individual regulated air pollutant increase from a project (*e.g.*, add up the potential carbon monoxide ("CO") emission increases from a project's two emissions points), not mix and match pollutants, then the language should be clarified. However, as drafted, the proposed language suggests that a source would add CO emissions to nitrogen oxides (NOx) and particulate emissions to determine if the potential to emit changed by more than 10 pounds per day. Aggregating pollutants in this manner is unprecedented and unworkable and so we assume this was not intended. As such, we suggest that the rule language be clarified that this addition across pollutants is not required.

Second, for many industries that routinely employ highly effective controls (*e.g.*, sawmills), the pre-control threshold of 10 pounds per day makes no practical sense. Particulate matter is a regulated air pollutant under DEQ's definition in OAR 340-200-0020(134). A typical baghouse would control 99.9% or more of total particulate. And yet, under the proposed language, the addition of a piece of equipment with 11 pounds per day of pre-control potential to emit to an existing baghouse would require a Type 2 NOC. This makes no sense given that the controlled potential to emit would be a small fraction of an ounce per day. Requiring the submittal of even a Type 1 NOC in such a situation has no appreciable environmental benefit. Requiring submittal of a Type 2 notice is excessive.

At the very least, Type 1 changes should include the installation of air pollution control devices that do not result in a greater than de minimis increase in the post-control emissions of any individual regulated pollutant. Any project that will have the ultimate result of lowering emissions should be fast-tracked through a Type 1 NOC. The Department should not make it more difficult, process-intensive or time consuming for sources to install, enhance or expand their air pollution control systems. If, for example, a source wants to add a baghouse to an existing source without causing more than de minimis increases in actual emissions, the only outcome is an environmental benefit. No environmental benefit is gained by shifting such an installation to the more laborious, slower Type 2 process. The result of requiring a Type 2 notice prior to implementing such a project is to delay installation of the air pollution control device and thus delay the environmental benefits. Therefore, we recommend that the Department explicitly state in OAR 340-210-0225(1) that air pollution control devices qualify for Type 1 NOCs where the installation and operation of the device will not result in a greater than de minimis increase in the emission of any individual regulated air pollutant.

Type 2 NOCs are too narrow in scope (OAR 340-210-0225(2))

One of the most concerning aspects of the proposed rules is how they severely limit the scope of Type 2 NOCs. DEQ informed the RAC that, on average, it receives 72 Type 2 NOCs per year and just two Type 3 NOCs per year. Type 3 NOCs are presently limited to those situations where the proposed change is so large that it requires obtaining a new Air Contaminant

Discharge Permit ("ACDP")—currently, at minimum, a 9-to-12-month process. DEQ is proposing to substantially decrease the size of projects that qualify for Type 2 NOCs and correspondingly increase the number of projects that must obtain a Type 3 NOC. Specifically, DEQ is proposing that any project with the potential to emit at the minor new source SER or more must obtain a Type 3 NOC, with the associated year of process and substantial permitting cost. The proposed minor source SERs are proposed to be set as low as 2 tons per year for PM10 and direct PM2.5 and 5 tons per year for SO2 and NOx. Such levels are inappropriately low and unworkable. For example, a source consisting of a 29 MMBtu/hr natural gas boiler is too small to require a Simple ACDP, and yet if that source replaced that boiler, its NOx potential to emit would equal 2 tons per year and thus require the source to obtain a Construction ACDP or Simple ACDP prior to installing that boiler. As obtaining an ACDP took at least 9 to 12 months when DEQ was only processing two Type 3 NOCs per year, and Type 3 NOCs historically did not require modeling and a control technology review, it is realistic to expect that the proposed Type 3 NOC process will take over 12 months to complete. DEQ currently processes nearly 200 Type 1 and 2 NOCs annually. Many of these will be shifted into Type 3 status, further underscoring the impracticality of DEQ's proposal. In short, the proposal is not feasible, will overwhelm DEQ and needlessly harm Oregon business. We strongly encourage DEQ to rethink its proposal for Type 2 NOCs and re-notice a different approach.

DEQ's NOC proposal excessively raises fees from industry (OAR 340-216-8020)

DEQ's Fee Analysis states that "This rulemaking does not involve new fees." That statement is both deceptive and flatly wrong. DEQ's proposal will shift large numbers of Type 1 NOCs into Type 2 NOCs and a likely larger number of Type 2 NOCs into Type 3 NOCs. Those shifts will have a tremendous fiscal impact on regulated sources that is not addressed in the rulemaking package. Until recently, DEQ did not charge for reviewing Type 1 or Type 2 NOCs. When DEQ did impose a fee of $720 for Type 2 NOCs, the regulated community did not object. However, in the current proposal, DEQ will shift a large number of source activities that previously required Type 2 NOCs to requiring Type 3 NOCs. The minimum fee applicable to a Type 3 NOC is $9,000 plus an additional $9,000 modeling review fee plus a first annual fee for new permittees of at least $3,917. Thus, DEQ has actually proposed to increase the fee for an existing source completing an activity that previously would trigger Type 2 NOC review but now would require a Type 3 NOC by a minimum of $17,280, or 2,500 percent. If that source opts for a Construction ACDP, the combined fee increase would be $22,680. This equates to a 3,250 percent increase in the cost of obtaining authority to install a new or replacement 29 MMBtu/hr natural gas-fired boiler. This is in addition to the extra year or more that DEQ would be adding to the approval process for that source. This sort of a change is extreme and imprudent at any time, but particularly where industry is fighting rising interest rates, sagging demand, high interest rates, severe supply chain issues, and challenges finding employees.

60 day approval clock of Type 2 changes (OAR 340-210-0240(1)(b))

The Coalition believes that the proposed changes to OAR 340-210-0240(1)(b) should clarify that if additional information is requested by DEQ in response to a Type 2 NOC, that only pauses the 60-day clock and does not restart it. ORS 468A.055(4) establishes that if the Department does not act on an NOC application within 60 days, the source may proceed with construction consistent with the application. The proposed revisions to OAR 340-210-0240(1)(b) generally are consistent with the statute. However, if additional information is requested to evaluate the application, ORS 468A.055 mandates that the 60-day clock be tolled and restarted where it left off upon the source's submittal of the requested information. Any other approach would render the statutory protection of ORS 468A.055 meaningless.

Mandatory 15 day review of NOCs for completeness (OAR 340-216-0040(10)(a))

The Coalition is concerned that, in the name of streamlining, DEQ is proposing to eliminate its accountability to regulated industry and the public. In its revisions to OAR 340-216-0040(10)(a), DEQ is proposing to delete the requirement for agency staff to promptly review air permit applications for completeness within 15 days of receipt. The requirement for timely DEQ action is important to the program and proposing its removal contradicts DEQ's assertions of wanting to make the program more accountable, transparent, and robust. We request that DEQ eliminate this proposed revision and keep a clear timeline in the rules for review of applications for completeness.

NOC application requirements are excessive (OAR 340-210-0230)

The Coalition is concerned that the proposed additions to the OAR 340-210-0230(1) NOC application requirements are excessive, unrealistic, and unnecessary. For example, the proposed OAR 340-210-0230(1)(p) requires that in order for a Type 1 or Type 2 NOC application to be deemed complete, the source must provide "Dates on which construction contracts are signed, equipment is ordered, and the owner or operator has committed, or will commit to initiating construction activities." This requirement is illogical as it requires information that the source often cannot know at the NOC application stage. The NOC process exists to provide pre-construction review. Until the project has been approved by DEQ, sources are often prohibited by internal processes, for sound business reasons, from signing construction contracts or ordering equipment. Likewise, without a definite period for the DEQ review process, a source cannot state with any certainty the date on which construction will be initiated (as proposed OAR 340-210-0230(1)(q) would require). Similarly, a source cannot state with any certainty at the application stage when it anticipates that construction will be completed (as required by the proposed OAR 340-210-0230(1)(r)). Given the proposed change under OAR 340-210-0240(4) to require that construction be completed "within 18 months of the anticipated date of construction completion included in the application," the date identified in the application has serious regulatory consequences to a source. We strongly urge the Department to remove the

proposed additions to the NOC application requirements in 340-210-0230(p), (q) and (r) as they are not information that can be provided or, as a matter of fairness, should be required prior to DEQ's completion of the construction review process.

SIC/NAICS Code changes requiring Type 3 NOCs (OAR 340-210-0230(3))

The Coalition is concerned that the Department is not considering how SIC/NAICS codes work in relation to its proposal to require that such changes undergo Type 3 NOC review. The proposed OAR 340-210-0230(3) would require a Type 3 NOC for "construction that requires a change in the two digit SIC/NAICS code for a source or the addition of a new SIC/NAICS code…." We see multiple problems with this proposed language, which we request be withdrawn from the proposed rule.

First, any reference to a two-digit SIC or NAICS code must identify that it is the primary two-digit code. A source can have any number of applicable codes, but the one that defines the source is the primary two-digit code. This code is defined by the activity that generated the highest amount of income for the facility in the prior calendar year. There can only be one such activity.

Second, the proposed rule language is inconsistent with the SIC/NAICS code structure. A construction project does not and cannot, by itself, "require a change in the two digit SIC/NAICS code." As noted above, the primary two-digit code for a facility is defined by the prior year's income. A proposed construction project cannot change the largest source of revenue in the prior year. Construction may, at most, result in a future change to the primary two-digit code. Construction can never, by definition, *require* a change in the primary two-digit code.

Finally, it is not appropriate to link the type of construction approval to whether, in the future, the primary source of revenue of a company may change. Such changes can only be guessed at and may never come to fruition.

Clarity as to transition policy

DEQ is proposing very significant changes to the NOC program. In order to provide regulatory certainty and fairness to the regulated community, we request that DEQ clearly state that NOC applications will be handled under the rules in effect at the time that the application was received. Such language would provide certainty to agency staff and the sources subject to these requirements. Requiring applications submitted in good faith under one set of rules to comply with rules that were not in existence when the application was submitted would not be equitable and, quite possible, not legal either. Most importantly, it is good policy to approach the rule transition in this manner.

Minor New Source Review

The *Minor New Source Review proposal is inconsistent with DEQ's statutory authority (OAR 340-224-0300)*

The Coalition is concerned that DEQ is overstepping its regulatory authority in proposing a new and unprecedented new source review program triggered if a source proposes a Type 3 change whose uncontrolled potential to emit exceeds the minor source SER. As proposed in OAR 340-224-0300, replacement of an old and decrepit oil-fired boiler with a new and lower emitting 29 MMBtu/hr natural gas-fired boiler would be subject to this new minor new source review program. In order to implement this emissions reduction project, the source would have to comply with a wholly new case-by-case control technology review referred to as Minor Source Emission Reduction Technology ("MSERT") and undergo an air quality analysis. This is a dramatic expansion as compared to what has been required of sources in Oregon for decades. The fees and delays will make emission reduction projects such as the hypothetical boiler replacement infeasible from a cost and timing perspective, doing harm to the environment.

The Coalition also believes that the proposed MSERT control technology program violates state law. ORS 468A establishes the authority of DEQ to regulate stationary sources. DEQ cannot exceed the authority granted to the agency by the Legislature. In 1993, the Legislature granted the Department authority to require Typically Available Control Technology ("TACT") of new and existing sources. The situations where TACT could be required and the specific limitations on the program are enumerated in ORS 468A.025. Now, without any advance discussion in the RAC meetings or, more importantly, new authorizing legislation, DEQ is proposing the MSERT program for new and existing sources. In doing so, DEQ is sidestepping the constraints imposed by statute to establish an entirely new and different program that will render the statutorily-established TACT program essentially irrelevant. If, after 29 years of the TACT program's implementation, the Legislature thought that DEQ should change and significantly expand the nature of controls imposed on new and existing sources (in particular, minor sources), the Legislature would make its desires known, and DEQ could act accordingly. The Legislature, however, has not acted to authorize DEQ in this regard. The proposed rules' end run around the TACT program and the constraints placed in statute subverts the Legislature's clear intent. Put plainly, the proposed MSERT program amounts to an unlawful attempt by DEQ to fundamentally revise the TACT statute in excess of DEQ's authority as an Oregon administrative agency. As such, the MSERT program elements must be dropped from the rule proposal.

Notwithstanding the fact that the MSERT program exceeds DEQ's statutory authority, we offer the following comments on the program as proposed.

Scope of MSERT program (OAR 340-224-0300(1))

The Coalition has questions and concerns about the definition of MSERT in the proposed rules.

First, the proposed definition of MSERT in OAR 340-200-020(92) limits the program to NOx, VOC, PM_{10}, $PM_{2.5}$ and SO_2. We appreciate this clarification. However, in the proposed OAR 340-224-0300(1)(c), the Minor Source New Source Review ("NSR") program would exempt devices or activities that emit CO, VOC or fugitive particulate. It is not clear how VOC is subject to MSERT and yet activities emitting VOC are exempt from minor source new source review (of which MSERT is a part). We believe that clarifying language is necessary to ensure the reader understands the circumstances in which VOC emissions are exempt from MSERT. Similarly, we support the exemption from Minor Source NSR for fugitive PM, but we request that DEQ clarify that the fugitive emissions of any of the covered pollutants are not subject to Minor Source NSR or MSERT. In addition, because condensable PM is not amenable to controls, we urge DEQ to clarify that MSERT applies only to filterable PM.

Second, the Coalition is concerned that the wording of the proposed OAR 340-224-0300(1)(b) makes it appear that if an existing source seeks a permit modification (e.g., a change in emission factor), DEQ would require the facility to go through ambient air modeling for all pollutants/activities with an uncontrolled potential to emit equal to or greater than the Minor Source SER and the MSERT program for all individual devices or activities with uncontrolled potential to emit equal to or greater than the Minor Source SER. As drafted, it is not clear that the scope of modeling or MSERT under -0300(1)(b) would be limited to those emission units being physically modified. Instead, it appears from the proposed language in OAR 340-224-0300(1)(b) that Minor Source NSR is triggered if a source applies for a modification of its permit and has any device or activity at the plant with an uncontrolled potential to emit equal to or greater than the Minor Source SER. As proposed, the rule language fails to connect the modification application to the device or activity with uncontrolled potential to emit greater than the Minor Source SER. Further, nowhere in the rule does it define what devices or activities at a facility must undergo MSERT. If a source changes an emission factor for a small activity (an action that would appear to require a permit modification under the proposed language), does every activity that meets the uncontrolled potential to emit threshold have to undergo MSERT? Such an outcome is nonsensical such that we cannot believe that could have been DEQ's intent.

As there would be no policy basis for requiring modeling or an MSERT demonstration for emission units that are not being physically changed, we presume that DEQ intended this portion of the proposed rule to apply only to those emission units being physically modified. If DEQ actually intended otherwise, we believe that such is very bad policy and will make small permit modifications, such as changes to emission factors, incredibly expensive and time-consuming. Regardless, as DEQ's current proposal is fundamentally unclear on this significant point, we encourage DEQ to clarify its intent through revised rule language. DEQ did not share the Minor Source NSR or MSERT language with the RAC, so it has not had the benefit of any constructive

dialog about that proposal. Accordingly, we strongly believe that this rule language is not ready for public notice and should be taken back, redrafted and shared with the RAC before it goes out to public comment.

Third, as proposed, MSERT would apply to any device or activity with uncontrolled potential to emit at or in excess of the Minor Source SER. We believe that having MSERT applicability turn on uncontrolled emissions is contrary to good policy and will discourage facilities from being proactive with controls. If MSERT applicability is based on uncontrolled emissions, then DEQ's rules will actually create a regulatory disincentive for facilities to propose controls from the outset. In contrast, if MSERT applicability were based on controlled emissions, facilities would have significant incentives to do the work up front to keep modified emission unit emissions beneath the Minor Source SER to avoid the protracted permitting delays and fees associated with projects triggering MSERT. To better align DEQ's regulatory language with its intent to incentivize companies to better control project emissions, we encourage DEQ to change MSERT applicability to turn on the level of controlled emissions.

Mandatory modeling as part of Minor Source NSR (OAR 340-224-0300(2)(b))

To reiterate, the Coalition requests that DEQ redraft the proposed rules to clarify (1) that the Minor NSR modeling requirements only apply to emissions units or activities being modified, and (2) only then if the modification causes the emission units to have controlled emissions over the Minor Source SER. In addition, in order to ensure that DEQ inaction does not slow down projects and harm the Oregon economy, modeling review should be limited to 30 days from when the application package is deemed complete or 60 days from submittal if DEQ does not identify in writing any specific shortcomings of the application.

Presumptive MSERT (OAR 340-224-0300(3))

The Coalition supports the concept of presumptive MSERT and appreciates the changes made to this section in response to our prior comments. However, we continue to be concerned about the limited number of controls addressed as well as the way that minimum control efficiencies are applied, as follows:

- In relation to the particulate controls identified in OAR 340-224-0300(3)(a), the list does not include ceramic filtration units (catalytic and non-catalytic), perhaps the highest efficiency particulate controls in use in Oregon at this time. We request that these controls be added to the presumptive MSERT list as they are state-of-the-art and do not fit within any of the enumerated control types.

- We appreciate the addition of low-NOx burners to the list of presumptive MSERT technologies as they are an excellent means of reducing NOx. However, we object to the requirement that they have a minimum control efficiency of 80 percent. There is no pre-

and post-control emissions testing for low-NOx burners, so it is impossible to demonstrate a control efficiency. As a result, manufacturers are unwilling to provide a formal certification of control efficiency because it is impossible to know what to compare the low-NOx burner to. For this reason, we request that the control efficiency requirement be removed from the proposed language in OAR 340-224-0300(3)(c).

- As noted previously, we encourage ozone injection for NOx control as a technology that should be included in the presumptive MSERT listing.

Plant Site Emission Limits

The proposed rules would make many fundamental changes to the Plant Site Emission Limit ("PSEL") program, a hallmark Oregon program that has protected air quality while providing flexibility to industry for over 40 years. Several specific concerns are discussed below.

Proposed elimination of Generic PSELs (OAR 340-222-0040)

The Coalition is concerned that the Department proposes to eliminate Generic PSELs without demonstrating that this significant change will create the targeted benefit with the least disruption to the existing permitting program. DEQ has stated that the complete elimination of the Generic PSEL program is required as a means to ensure short term NAAQS are protected. However, the proposal ignores the fact that the Generic PSEL was added to the rules in 2001 at the request of DEQ staff to avoid the enormous and unproductive process of incrementally making small PSEL changes devoid of any environmental impact. The proposal seeks to set the air program back 21 years and return DEQ staff to spending the majority of their time processing PSEL increases that have no environmental significance.

The proposed rule language goes far beyond what is necessary to achieve the stated goal of NAAQS protection. No Coalition member believes that it is appropriate to violate a NAAQS. We understand the Department's concern that if a source appears at risk of exceeding a short term NAAQS, automatically granting them a Generic PSEL could result in an issue. However as demonstrated in the Department's own study, the number of sources in this position is a small percentage of the overall number of sources that hold PSELs. In addition, the short term NAAQS concern only relates to three of the criteria pollutants, not all of them. Converting all of the Generic PSELs to source-specific PSELs will consume substantial Department resources. Addressing the permit changes required for minimal increases in PSELs (the issue that the Department previously addressed by creating Generic PSELs) will similarly consume substantial Department resources on a going forward basis. Therefore, the proposed solution is far more costly (of source and Departmental resources) than what is needed to address the perceived problem. The end result will be an exacerbation of DEQ's failure to meet timeliness goals, needless impacts on Oregon's ability to compete and a decrease in the Department's ability to recognize and address real problems.

The Coalition recommends that the Generic PSELs be maintained except where it is demonstrated through modeling or monitoring that there is a concern with a facility threatening NAAQS compliance. Consistent with discussion at the April 15, 2022 RAC meeting, we could see the Department limiting Generic PSELs to sources whose modeled emissions do not exceed a certain percentage (e.g., 75 percent) of the NAAQS. Where a source's ambient impacts, when added to background, are approaching the NAAQS, establishing source specific PSELs at less than the SER may be reasonable and appropriate. Outside of those circumstances, it is not.

Clarity of proposed PSEL provisions (e.g., 340-216-0025(6)(B)(b))

The Coalition believes that certain proposed revisions to the rules that reference PSELs need to be changed to avoid significant confusion over the scope of the PSEL program. As specified in OAR 340-222-0020(1), PSELs only apply to those pollutants listed in the definition of "Significant Emission Rate." As reiterated later in the PSEL rule, PSELs are not imposed for hazardous air pollutants, accidental release pollutants, or toxic air pollutants. OAR 340-222-0020(3)(c). However, there are multiple places in the draft rules where new language is being proposed stating that PSELs are required "for all regulated air pollutants." See, e.g., OAR 340-216-0025(6)(B)(b). This language should be revised to avoid contradicting the existing rules and established policy that PSELs are only required for pollutants listed in the definition of "Significant Emission Rate" at OAR 340-200-0020.

NAAQS modeling as part of permit renewals and modifications (OAR 340-216-0040)

The Coalition is concerned about the unfettered discretion that DEQ is proposing it be allowed to determine what sources must conduct modeling to demonstrate NAAQS compliance. As proposed, the Department may require a source to model NAAQS compliance whenever it renews its permit. Under the proposed approach, modeling would only be required when requested by DEQ. See, e.g., OAR 340-216-0040(2)(a)(D) (ACDP renewals) and -0040(3)(d) (ACDP modifications); 340-218-0040(1)(c)(N). We support the proposed approach to the extent that it does not require, as a bright-line rule, all existing sources to model as part of every permit renewal or permit modification. We see the proposed approach as practical, in that it presumably limits modeling to those situations where DEQ determines, in its discretion, that it is truly needed. However, DEQ has failed to state any criteria in the rules for when it may exercise this discretion. Requesting such unfettered discretion from the EQC goes beyond what is allowed by law and leaves sources subject to agency caprice, with no ability to predict when modeling will or will not be required. DEQ has other areas in the air rules where it has requested discretion from the EQC, but has provided criteria to be applied in exercising this discretion. For example, in deciding the required ACDP type, DEQ has the discretion to shift a source to a different permit level. However, unlike the modeling provisions, multiple criteria governing when and how DEQ's discretion will be exercised to determine a source's ACDP type. See, OAR 340-216-0025(7)(b). DEQ should add to the proposed rules specific and objective criteria applicable

to when a source will be required to conduct modeling as part of a permit modification or renewal. At a minimum, it would be appropriate to state that modeling can only be required if (a) there is a reasonable basis to believe that a NAAQS might be exceeded and (b) the source is requesting an increase in emissions. Without such criteria, DEQ is requesting unbridled discretion beyond anything contemplated by the Legislature. Again, while we appreciate that DEQ needs some room for discretion in which to act, all would be served better if the proposed rule includes clear, objective criteria for where modeling is appropriate for DEQ to require.

The Coalition is also concerned about the Department's ability to review the tremendous amount of new modeling that will be the result of the proposed rule revisions. As proposed, the number of applications that will require modeling will increase from an average of 1 to 3 per year to dozens per year. This will occur at the same time that DEQ's modeling staff are already overwhelmed, especially by the Cleaner Air Oregon program. This will result in tremendous permitting delays. Type 3 notices currently take 9 to 12 months to complete where the Department only processes, on average, two Type 3 changes per year. With the substantial increase in Type 3 changes resulting from the proposed rule revisions, and the extensive additional requirements applicable to Type 3 changes under the proposed revisions, it is all but certain that the Department will be unable to keep up with demand and Oregon industry will be forced to cancel projects in the state and move production elsewhere. This impact of the rules has not been adequately addressed and DEQ must do so before moving ahead with the proposal. When asked during a RAC meeting what increase in resources would be required as result of the increase in Type 3 changes, DEQ replied that it could not predict the impacts. Such a underinformed approach to permitting program changes is not acceptable to the regulated community or the general public. Absent a comprehensive and impartial analysis of program impacts prior to rule adoption, the regulated community will be pushed to resist any subsequent requests to the Legislature for funds to swell the ranks of DEQ to address the shortfalls resulting from this proposal.

Miscellaneous

Limits to ensure NAAQS compliance (OAR 340-216; 340-218)

The Coalition is concerned about the proposed language in OAR 340-216-0064(3)(c), -216-066(3)(c) and -218-0050(1)(b) suggesting that DEQ can unilaterally impose "any physical or operational limit" on a source that conducted modeling or, indeed, whenever DEQ determines that such conditions are required. This concern was heightened at the April 15, 2022 RAC meeting where DEQ suggested adding language requiring limits if a source's modeling indicated that the combination of the source's impacts and background were 75 percent or more of the NAAQS. Such a suggestion is unsupported by statute, rule or common sense for multiple reasons.

First, we want to be clear that we recognize that it is the foundation of air permitting that a source cannot cause or contribute to a NAAQS exceedance. For decades DEQ has implemented this doctrine by requiring sources to propose and accept such limits as are necessary to avoid an exceedance. However, what DEQ proposed at the RAC meeting goes far beyond historical precedent by authorizing DEQ to impose limits if a source's impacts, plus background, equal 75 percent of the NAAQS. While the 75 percent criterion is not in the rules, it underscores the need for clear criteria in rules for when and how any type of limit will be imposed to protect NAAQS. There is no basis for the Department to impose source specific limits where the combination of background plus the source's modeled impacts (already a very conservative way of evaluating NAAQS compliance) results in worst case impacts of only 76 percent of the NAAQS. The problem with this approach becomes immediately apparent with $PM_{2.5}$ where the background value in the Portland area is, by itself, roughly 75 percent of the NAAQS. Again, we recognize that conditions must be accepted to prevent an *exceedance*, but there is no basis to impose conditions where this conservative analysis demonstrates not only that there is no exceedance, but that worst case impacts (which almost certainly will never occur) are only 76 percent of the standard.

Second, although a modeled NAAQS exceedance can be important information for use to assess whether a NAAQS violation might occur, modeling does not itself demonstrate that a source's emissions actually do or would cause or contribute to a NAAQS exceedance.

Third, even in those situations where a modeled NAAQS driven limit is appropriate, it is the source, not DEQ, that should propose any limit and that limit should impose the least restriction possible while ensuring protection of the NAAQS. Obviously, any limit must be acceptable to the Department, but it should be the source, not the agency, that proposes how a source would limit its ambient impacts. We believe that may have been the intent of the Department, but the proposed rules are not clear in this regard and so we suggest the following revisions to the proposed language to clarify this point:

> For sources <u>where modeling or monitoring demonstrates</u> that permit conditions are necessary to ensure the source's emissions will not cause or contribute to an exceedance or violation of an ambient air quality standard adopted under OAR chapter 340, division 202, at the request of the owner or operator, DEQ may include any physical or operational limitation, including use of control devices, restrictions on hours of operation or on the type or amount of material combusted, stored, or processed as permit conditions to limit short term potential to emit; and….

Finally, we encourage the Department to clearly state in adopting the final rules that the intent of the proposed revisions is not to reduce source flexibility. Any other approach would be contrary

to the rule policy adopted by the EQC. Specifically, the EQC has declared the policy of the rules as follows:

> However, except as needed to protect ambient air quality standards, PSD increments and visibility, the EQC does not intend to: limit the use of existing production capacity of any air quality permittee; cause any undue hardship or expense to any permittee who wishes to use existing unused productive capacity; or create inequity within any class of permittees subject to specific industrial standards that are based on emissions related to production. OAR 340-222-0010.

DEQ cannot remain consistent with this long-established, binding EQC policy if it leaves any suggestion that limits will be imposed under the proposed revisions that go beyond what is actually required to protect ambient air quality standards.

Short Term Activity ACDPs (OAR 340-216-0054)

The Coalition supports the proposed addition of Short Term Activity ACDPs in OAR 340-216-0054. We believe that this is a constructive change to the rules. However, we are concerned that there could be activities appropriate for coverage under a Short Term Activity ACDP that cannot be reasonably accomplished in 120 days (i.e., the initial term plus the single allowed extension). For example, an extended pilot study of an innovative control device can often take longer than 120 days and yet is not appropriate for coverage under any other type of ACDP. For this reason, we suggest that DEQ draft the rules so that it is able to grant, at a minimum, two 60 day extensions and, preferably, up to one year of aggregate coverage under a Short Term Activity ACDP. The Department can approve or disapprove of an extension depending on the need. However, limiting the permit to a 60 day period and single 60 day extension unnecessarily constrains the agency's discretion.

New air permit application requirements (OAR 340-216-0040(1)(a))

The Coalition is concerned by the changes proposed to the new permit application requirements. Specifically, DEQ is proposing to revise OAR 340-216-0040(1)(a)(E) to require a plot plan showing "the location and height of all devices and activities, including any pollution control devices." We can understand the possible utility to DEQ to know the location and height of buildings and stacks. But, there is no reason to require applicants to show the precise location within a building of each piece of equipment and the height of that piece of equipment situated within a building. We suggest that this requirement be corrected to match the information needed and not the unnecessary information it is requiring.

Similarly, we suggest that DEQ re-examine the proposed changes to OAR 340-216-0040(1)(a)(F) and (G) which include requiring that the make and model of every device, activity

and air pollution control device be included in an application. The precise make and model of every device is frequently not known at the time that the application is submitted. Given the tremendous time delays associated with air permitting in Oregon, it is typical for sources to submit applications before all such details are determined. In fact, sources are often required to do so as the permitting process itself dictates what model of equipment is required. By revising the existing rules in the manner proposed, DEQ is making it so that an application that did not have a make and model for every device would be rejected as incomplete. Such specificity is difficult and contradicts the intent of the review process. Therefore, we request that the final rules not require this information as a necessary element in order for an application to be deemed complete.

Department initiated modifications (OAR 340-216-0084)

The Coalition is greatly concerned that the proposed changes to the procedures for Department initiated permit modifications violate state statute and significantly decrease the protection afforded permit holders. Moreover, DEQ did not mention or seek any input on the proposed changes to this procedure during the RAC process. The proposed changes will gut the important protections that have been present in the rules since the Oregon air permitting program was first adopted and that are mandated by state statute.

The proposed changes appear to ignore the critical difference between a source-requested permit modification and a Department-initiated permit modification. Where the source requests a permit modification, it is appropriate that the process proceed consistent with the normal permitting procedures in Division 216. However, this is not appropriate in the unusual situation where the Department unilaterally proposes to change a source's permit.

The highly unusual circumstance in which the Department initiates a modification of a source's permit is governed by statutory protections for the permittee. Specifically, ORS 468.070(5) specifies that:

> The procedure for modification, suspension, revocation, or refusal to issue or renew shall be the procedure for a contested case as provided in ORS chapter 183.

The statutory procedures and protections are carried forward in OAR 340-216-0084—a regulatory provision that has existed in substantially the same form since 1972. Yet now, without the benefit of any discussion with the RAC, DEQ is proposing to eliminate the statutory protection afforded a source subject to a Department-initiated modification and instead proposes to move the process to the standard notice and comment procedures used for source-initiated modifications. Even more importantly, it removes the source's right to an automatic stay pending outcome of the hearing. In other words, the Department's proposed revisions to OAR 340-216-0084 will strip permit holders of important protections. Such a change is contrary to

statute and good policy providing for due process. We request that the proposed changes to OAR 340-216-0084 be eliminated from the final rule package.

Unplanned upset provisions (OAR 340-214-0330)

The Coalition has significant concerns about the proposed changes to the "All Other Excess Emissions" language in Division 214. This particular provision addresses unanticipated process upsets that result in excess emissions from events other than planned startups or shutdowns or as the result of scheduled maintenance. Because of the limited scope of -0330, it is not possible to anticipate in advance what the incident is that will result in the excess emissions. Therefore, we do not believe that it is practical or appropriate to require, as a condition of continued operation, that a source have "an emission minimization plan approved in writing by DEQ prior to the occurrence of the excess emission event." Yet this is what is being proposed in OAR 340-214-0330(2)(a)(C). We recognize the merit of preparing an emission minimization plan if a facility desires to continue operating during an excess emission period. If the excess emissions can be minimized through measures identified after the event has commenced, the Department should not be prevented from allowing the source to continue to operate. However, the proposed language would have this effect simply because the minimization plan was not (and could not have been) approved in advance. This makes no sense and will result in sources necessarily developing vague minimization procedures as it is impossible to predict what specific excess emission event will occur in advance of it occurring.

The Coalition also believes that the proposed revisions to OAR 340-214-0330(2)(a) should include language stating that immediate shutdown is not required if the emissions associated with shutdown and the subsequent startup will exceed those resulting from continued operation. The need for this language is demonstrated through a practical example. If a hog fuel boiler with a 2-field electrostatic precipitator (ESP) loses one field, it is likely going to have excess emissions. However, shutting down the hog fuel boiler during the hours necessary for repair will result in a cold start of the boiler. During the shutdown and subsequent cold start, the ESP cannot safely operate at all and so hours of completely uncontrolled emissions will occur. Were the boiler to keep operating with the one field in the ESP controlling particulate, significantly less emissions would result than if the boiler went through a shutdown and subsequent cold start. Such situations occur with many different types of controls that require the controlled device to come up to temperature and stabilize before the controls are effective (e.g., SNCR). The rules should provide that a source can keep operating in the event of an upset resulting in excess emissions if it can demonstrate to the Department that fewer emissions will result from continued operation than from shutting down and restarting.

We appreciate the Department proposing to add consideration of whether emissions from shutdown and startup would be greater than the emissions likely to result from delay of repair, but we are concerned that this misses the mark. The proposed language is only relevant to the Department's review of minimization plans submitted in advance of an upset. Most upsets are

not anticipated. Therefore, this language does not aid a source that has an unanticipated upset. Also, the language speaks of delay of repair and fails to note that many repairs can be made while the underlying equipment is operating. So, while we support the proposed addition to OAR 340-214-0330(2)(c), we request that language balancing emissions from startup and shutdown also be included in the proposed edits to 340-214-0330(2)(a). The Coalition continues to believe that considering whether immediate shutdown and repair would result in higher emissions is an appropriate and necessary response to excess emission conditions, regardless of whether an upset was evaluated and responsive actions approved by DEQ in advance of the event.

Non-Categorical RACT Requirements (OAR 340-232-0040)

The Coalition is concerned that the Department is proposing to change the non-categorical RACT requirements without the benefit of discussion without any demonstration of need. The non-categorical RACT requirements apply to sources not covered by a categorical RACT standard and that have pre-control VOC potential to emit of 100 tons per year or more. DEQ has proposed two changes that we believe are not appropriate. First, DEQ is proposing to remove the reference to potential to emit and replace it with language requiring evaluation of emissions if the source operates at maximum capacity for 8,760 hours per year. However, experience implementing the program shows that some sources are physically incapable of operating 8,760 hours per year. The determination of potential to emit should be left to the permit engineer and not be subject to arbitrary requirements imposed by rule. After 44 years of this provision being in the rules, we see no basis for changing it and DEQ has offered none.

Second, the proposed changes to the rule arguably prevent a source from being able to take enforceable limits to reduce the pre-control potential to emit VOC to less than 100 tons per year. Such limits are a well-established means of reducing potential to emit and have previously been used by DEQ to assess applicability of OAR 340-232-0040. Changing that approach now would reverse decades of precedent without any reasonable policy basis. Where an enforceable mechanism has been established to reduce emissions below the non-categorical RACT threshold, that mechanism should be recognized and respected.

For these reasons we strongly urge DEQ to not make the proposed changes to OAR 340-232-0040.

NSPS capital expenditure definition (OAR 340-238-0040)

DEQ is proposing to revise the definition of "capital expenditure" in a manner that would make the definition unworkable. The state and federal definition of "capital expenditure" under the NSPS program has always turned on whether there is an expenditure that exceeds the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service ("IRS") Publication 534. DEQ is proposing to change the word "latest" to

"November 2016." While we would normally support the greater specificity that we are sure underlies this suggested edit, the proposed change should not be made. This is because at some point after the NSPS program definition of "capital expenditure" was adopted, the IRS replaced Publication 534 with a different document that does not include annual asset guideline repair allowance percentages. If you look at the November 2016 version of Publication 534, you will not find this term used anywhere in the document. As EPA has explained in various determination letters:

> It is worth noting that the latest version of IRS Publication 534 that contains a complete list of AAGRPs is the December 1984 edition. The IRS no longer publishes these guideline repair allowances in its Publication 534. Therefore, EPA recommends the use of the December 1984 edition for this purpose and will not construe the phrase "latest edition" in the definition of capital expenditure to refer to more recent versions of the publication. EPA Applicability Determination Index No. 9900074 (April 7, 1998).

As recognized by EPA, in order to retain reference to the correct IRS Publication 534, the Oregon rules should specify the December 1984 IRS Publication 534. Referencing the November 2016 version of the document will result in the definition becoming unusable and make the state NSPS program inconsistent with the federal NSPS program in a significant respect.

Change in definition of "Greenhouse Gases" (OAR 340-200-0020(72))

The Coalition is concerned with the proposed change in definition of "greenhouse gases" in OAR 340-200-0020(72)(a). The proposed changes to the definition would delegate the authority to determine what constitutes a greenhouse gas in Oregon to EPA. This is neither appropriate nor legal. There is well established case law that it is a violation of the Oregon Constitution for an agency to prospectively adopt changes to federal rules. As proposed, the definition of "greenhouse gases" would run afoul of this constitutional prohibition. We recommend that DEQ not revise the "greenhouse gas" definition in OAR 340-200-0020(72)(a) as doing so will call into question years of permitting based on the current definition.

Change to definition of "Significant Emission Rate" (OAR 340200-0020(162))

The Coalition is concerned that DEQ is making a significant change to the definition of "significant Emission Rate" or "SER" without adequate process, explanation or policy basis. Significant emission rates are used in many manners in the regulations, including determining the type of NOC a facility is required to submit. SERs are established for some of the regulated pollutants, but not for the majority of them. OAR 340-200-0020(162)(v) enables DEQ to

determine an SER where one is not listed. DEQ is proposing to simply set the SER at "zero" for any pollutant not listed. The proposed approach does not make good policy sense as Oregon has myriad regulated air pollutants for which SERs have not been established and it is critical that DEQ have the ability to determine an SER for such a pollutant if necessary to do so as part of a permitting action. Automatically and irrevocably setting SERs to "zero" for these pollutants is an abdication of DEQ's permitting responsibilities. For this reason, we request that DEQ drop this proposed revision.

Removal of tert butyl acetate exemption status (OAR 340-200-0020(191))

The Coalition is concerned that DEQ is reversing a longstanding determination as to the exempt status of tert butyl acetate without undergoing any appropriate analysis. The current definition of VOC in OAR 340-200-0020(191) exempts tert butyl acetate for the purposes of VOC emissions limitations and VOC content requirements, while leaving this chemical regulated as a VOC for other purposes. DEQ is proposing to change that regulatory status without explanation or technical justification. We do not believe that this is merited or proper and request that DEQ not change the definition of VOC as it relates to tert butyl acetate without adequate analysis and process—neither of which appear to have occurred in the context of this rulemaking.

Clarification of Kraft pulp mill rules (OAR 340-234-0210)

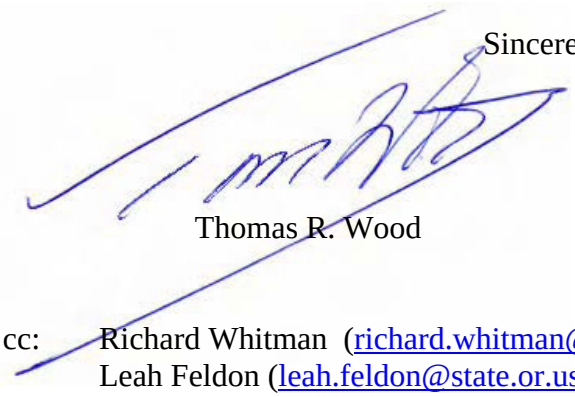
The Coalition appreciates the intent of the clarifications being proposed to the Kraft pulp mill rules in Division 234. However, we believe that the edits proposed in relation to the TRS requirements may add less clarity rather than more. Specifically, we have two concerns. First, the addition of the words "either or both" before several of the dual limits is confusing. The current regulatory language plainly states that, for example, TRS emissions from a recovery furnace predating 1969 "may not exceed 10 ppm and 0.15 Kg/metric ton (0.30 pound/ton) of production as daily arithmetic averages." That language clearly imposes a concentration and a mass limit and there is no question that both limits apply. Adding the words "either or both" before the limits dilutes that clarity. We are even more concerned about the proposed deletion of the words "as a daily arithmetic average" after the concentration limit applicable to lime kilns. As proposed, the clearest read of the rule would be that the 20 ppm limit is being changed to an instantaneous limit and only the mass-based limit is monitored on a daily arithmetic average basis. We do not believe that this was DEQ's intent and so we suggest that the proposed deletion of "as a daily arithmetic average" from OAR 340-234-0210(1)(b) be dropped in the final rule. The Coalition supports the clarification of recovery boilers being exempt from the opacity standards in Division 208.

Conclusions

All of the Coalition members are committed to maintaining the clean air that we have in Oregon. The vast majority of Oregon, including all of its major metropolitan areas, are in compliance with all of the National Ambient Air Quality Standards and have been for many years. To the extent that there have been elevated days in recent years, the elevated values have been directly attributable to regional forest fires. DEQ modeling has demonstrated that industrial sources are a minor source of air pollution in Oregon—dwarfed by mobile and nonroad sources. Industry supports changes to the regulations that streamline processes and reduce inefficiencies as that frees up DEQ staff time and avoids expensive efforts that do not have commensurate environmental benefits. However, many of the regulatory changes proposed to date are expected to increase regulatory burden without a meaningful increase in environmental protection.

Please do not hesitate to call if you have any questions about these comments.

Sincerely,



Thomas R. Wood

Geoffrey B. Tichenor

cc: Richard Whitman (richard.whitman@state.or.us)
Leah Feldon (leah.feldon@state.or.us)
Ali Mirzakhalili (ali.mirzakhalili@state.or.us)
Sharla Moffett (Oregon Business & Industry)
Coalition Members

OREGON MANUFACTURERS AND COMMERCE

MEMORANDUM

To: Jill Inahara, Rulemaking Contact, Oregon Department of Environmental Quality
Sent via email: jill.inahara@deq.state.or.us

From: Oregon Manufacturers and Commerce
Shaun Jillions, sjillions@oregonmanufacturers.org

Date: April 22, 2022

Re: Oregon DEQ Air Quality Permitting Updates 2022: Rulemaking Advisory Committee Meeting 4

Thank you for the opportunity to provide feedback on the topics presented by the Oregon Department of Environmental Quality ("DEQ") at the fourth meeting of the Air Quality Permitting Updates 2022: Rulemaking Advisory Committee ("RAC"). As a reference, Oregon Manufacturers and Commerce ("OMC") is an association dedicated to promoting, protecting, and advancing Oregon manufacturers and their allied partners.

OMC writes to share concerns about the proposed rule language under consideration and the suggested direction of the rule revisions presented at the fourth RAC meeting. Our comments follow the general order that the topics were discussed and are not otherwise prioritized.

a. Eliminate Generic PSELs

Generic PSELs play an important role in Oregon's air permitting program. However, DEQ's proposed elimination of Generic PSELs would require minor projects to follow an extended permitting process for every small change and would have little or no benefit to air quality. This proposal also increases the agency's workload, requiring staff to review and evaluate the smallest changes. OMC opposes DEQ's proposal to eliminate Generic PSELs and replace them with more restrictive requirements.

b. Eliminate source operation for 48 hours without using a pollution control device

OMC supports the comments submitted by the Coalition and NWPPA in response to the conversation during the third RAC meeting concerning the elimination of source operation for 48-hours without using a pollution control device.

OMC disagrees with the premise that OAR 340-214-0330(3) permits a facility to operate without emission controls for 48 hours without notifying DEQ or discussing mitigation plans. In fact, DEQ has long interpreted OAR 340-214-0330(3) to require any large source to immediately notify DEQ of an excess emissions event. Under OAR 340-214-0330(3), a source that cannot immediately stop the violation must ensure that the activity ceases no later than 48 hours after the onset of the excess emissions unless DEQ authorizes procedures for minimizing emissions until the issue can be fixed.

As DEQ is aware, permitted facilities typically prepare mitigation plans and submit them to the Department in advance of planned maintenance or startups and shutdowns when excess emissions are anticipated. However, not all events can be anticipated or have mitigation plans pre-approved, and eliminating the 48-hour window removes the ability to draft mitigation procedures and get them approved by DEQ.

Finally, as was highlighted in the RAC and public comments, forcing a process shutdown is also likely to increase emissions due to the forced shutdown process itself. This increase should be addressed in the agency's proposal.

c. Review process for smaller increases in emissions

DEQ layers unnecessary regulatory burdens on regulated sources, such as the proposed land use compatibility statement ("LUCS") required in proposed OAR 340-210-0230(1)(o)(A-B) and 340-216-0040(1)(M)(i-ii). Specifically, the proposed addition of subsections (B) and (ii) that require a source to perform an artificially created Land Use Compatibility analysis is unnecessary. The intent of DEQ requiring a LUCS is to ensure that DEQ does not disregard local land use planning requirements. As such, DEQ's rules in -0040(1)(a)(K) require a LUCS if it is required by the local planning agency. DEQ's proposed changes to the LUCS rules are inconsistent with the agency's current rules and ORS 197.180, which directs state agencies to coordinate with local planning agencies to ensure their actions are authorized with respect to local land use laws. The local planning agency with jurisdiction is in the best position to determine whether a review is required, not DEQ. When that local planning agency determines that LUCS review is not required, DEQ should not disregard that determination and require a source to prepare its own review. OMC opposes this unnecessary change.

OMC also does not support the elimination of many Type 1 NCs and shift to Type 2. DEQ's rationale for eliminating Type 1 NCs is that it lacks the resources to review them to see if they were properly filed. However, we disagree that the Department's operations will improve if it moves many Type 1 NCs into the Type 2 category and then requires more regulatory process and DEQ involvement with Type 2 and Type 3 NCs. This proposal will likely make the NC process less workable, more resource intensive for the agency and more burdensome for Oregon sources without a demonstrated environmental benefit. OMC opposes this change.

DEQ's proposed changes, presented at during the fourth RAC meeting beginning on slide 26 (and shared verbally by staff), represent a significant departure from the draft

proposed rules dated 3/15/2022 and require further analysis. The proposed Type 2 NC changes appear to require modeling in several different areas for permit changes and permit renewals and a new technology review for most permit actions and modifications.

Given that DEQ has not actually established a process for BAT review, our organization is not yet able to comment on the process. We are, however, concerned that the new BAT requirements could increase the expense and timeline for approval of Type 2 NC far beyond 60-days. In the first RAC meeting, it was suggested that the Type 2 NC 60-day clock would reset each time DEQ requests additional information from the facility. That would create significant new authority for DEQ to possibly extend the approval clock indefinitely. We do not believe that this approach is consistent with ORS 468A.055(2) and (4) that any information requests must be made by DEQ within 30 days of receipt of the application and that DEQ complete its review within 60 days of receipt of the application. OMC recommends DEQ not move forward with this proposal.

OMC also believes further conversation is needed concerning DEQ's proposal to establish the BAT analysis threshold based on uncontrolled emissions instead of controlled emissions. Requiring BAT analyses based on whether uncontrolled emissions exceed a threshold would have a tendency to discourage facilities from voluntarily installing controls on their processes as part of the project in order to streamline the permit issuance process. We would think the citizens of Oregon would encourage this type of voluntary emission control. The proposed BAT thresholds also seem very low, though DEQ did not provide stakeholders with sufficient time to gather feedback from potentially impacted regulated sources about the proposed thresholds.

DEQ's proposal for Type 2 NC changes appears to increase workload and decrease the efficiencies the agency sought to identify at the outset of this rulemaking. The proposal creates unknown fiscal and administrative burdens for regulated sources and for DEQ permitting staff. OMC urges the agency to address these unknowns and questions with stakeholders before releasing final proposed rules for public comment.

OMC opposes the proposal to require NAAQS modeling as part of every permit renewal and does not believe that further changes to DEQ's rules are necessary to explain how modeling can be used to assess whether short-term NAAQS exceedances occur. Performing multipollutant NAAQS modeling requires substantial resources from regulated sources and DEQ. The Department is already years behind in renewing many of the standard ACDPs and Title V permits, and this proposal will undoubtedly exacerbate the existing backlog. NAAQS modeling may be appropriate in certain circumstances, but the scant state and source resources should not be consumed with the requirement that every existing source with an air permit must prove a negative each time its permit comes up for renewal.

OMC is also concerned with DEQ staff comments related to new short-term NAAQS modeling requirements. We would like to think we misheard, but we believe DEQ conveyed that if a source's modeling results in 75% or greater of short-term NAAQS (including emissions from the source and background emissions), DEQ intends to

impose short-term limits on the source's process. These could include limits on production, throughput and usage, required monitoring, and potential limits on individual emissions units. If this is DEQ's intent, we urge DEQ to revisit this proposal and share proposed language with the RAC, as this concept would increase the cost and decrease operational flexibility and regulatory certainty for sources.

These rule revisions, as presented, will require more permit modifications, increase permit engineer workload, and reduce permitting efficiencies than the current process. OMC respectfully requests that DEQ provide regulated sources with additional time to meaningfully review the proposal and provide substantive feedback, particularly since the agency has not yet shared much of the proposed rule language with stakeholders on the RAC.

OMC appreciates the opportunity to submit these written comments for the rulemaking record and looks forward to future engagement with the DEQ.

OREGON MANUFACTURERS AND COMMERCE

MEMORANDUM

To: Jill Inahara, Rulemaking Contact, Oregon Department of Environmental Quality
Sent via email: 2022.AQPERMITS@DEQ.OREGON.GOV

From: Oregon Manufacturers and Commerce
Shaun Jillions, sjillions@oregonmanufacturers.org

Date: August 1, 2022

Re: Comments on Oregon DEQ's Air Quality Permitting Updates 2022

Thank you for the opportunity to comment on the proposal from the Department of Environmental Quality ("DEQ") to update Oregon's air quality rules. As a reference, Oregon Manufacturers and Commerce ("OMC") is an association dedicated to promoting, protecting, and advancing Oregon manufacturers and their allied partners.

OMC is firmly committed to safeguarding Oregon's clean air. However, we are concerned with DEQ's proposed rules, which impose significant new regulatory burdens on businesses and leave Oregon manufacturers at a competitive disadvantage compared to sources operating in other states. OMC's concerns with DEQ's proposed rules are detailed in the comments submitted by Stoel Rives on behalf of a broad coalition of Oregon businesses and manufacturing associations ("the Coalition"). We support the Stoel Rives' comments and adopt them here by reference. Although OMC's comments do not address the proposed rules with the same degree of specificity as the comments submitted by the Coalition during the RAC process, it is important that we highlight a number of proposals that are of particular concern to Oregon manufacturers.

DEQ's proposed rules reverse decades of precedent and erode compliance certainty.

OMC urges DEQ to reconsider its decision to eliminate Generic PSELs, which have worked well for over 20 years. Generic PSELs play an important role in Oregon's air permitting program. However, DEQ's proposed elimination of Generic PSELs would require minor projects to follow an extended permitting process for every small change and would have little or no benefit to air quality. This proposal also increases the agency's workload, requiring staff to review and evaluate the smallest changes. Such projects have been exempt from the notice requirements for decades for sound policy reasons. This proposal will make the notice of construction process less workable, more resource intensive for the agency and more burdensome for Oregon sources without a demonstrated environmental benefit.

Similarly, without any advance discussion before the Rulemaking Advisory Committee, DEQ is proposing to require many existing sources to comply with a new control technology program (called Minor Source Emission Reduction Technology or MSERT). That program has no precedent in Oregon, was not authorized by the legislature, and could suddenly cause existing sources to be operating with technologies that do not comply. Existing sources have already made substantial investments to comply with Oregon's air quality program, and DEQ should honor those investments and drop the proposed MSERT program.

DEQ's proposed rules will cause lengthy delays in construction approvals and hinder investment in Oregon businesses.

DEQ's proposed rules will transform the majority of projects completed by sources requiring notice to DEQ (i.e., Type 1 and 2 actions) into substantive (i.e., Type 3) actions, requiring significant pre-construction analyses and permitting. At present, even though DEQ handles only a few Type 3 permitting actions each year, each one takes typically takes 9-12 months for DEQ to process. DEQ has not explained how it will process the dozens of Type 3 actions that will result from its proposed rules. This proposal will likely make the notice of construction process less workable, more resource intensive for the agency and more burdensome for Oregon sources without a demonstrated environmental benefit. DEQ should retain the existing notice of construction structure.

DEQ's proposed rules substantially increase the costs to comply with Oregon's air quality rules.

Even though DEQ's fee analysis for the proposed rule says the rule will not impose new fees, by transforming most projects requiring notice to DEQ into Type 3 permitting actions, DEQ will increase fees from the current $720 fee to a minimum of $18,000 (under DEQ's current fee schedules) for each project affected by the proposal. That fee increase is separate from the significant costs that Oregon businesses will incur complying with the new regulatory programs (e.g., Minor Source New Source Review) included with the proposal.

DEQ's proposed rules discourage businesses from undertaking projects to control air pollution.

As outlined in our comments submitted on April 22, 2022, OMC does not support DEQ's proposal to require pre-construction approval for air pollution controls that are voluntarily used by Oregon businesses, but are not needed to comply with any applicable air emission limits. Given the substantial cost and delay associated with DEQ's pre-construction approval process, the result of DEQ's proposal will be to discourage sources from undertaking air pollution control projects in order to streamline the permit issuance process.

DEQ's proposed rules give the agency broad discretion to interfere with and even curtail Oregon business operations.

Under the proposed rules, DEQ seeks to give itself unchecked authority to require a business to do whatever the agency determines may be needed (including forcing the business to accept any physical or operational limit that DEQ chooses) whenever DEQ determines without objective criteria that a source might cause or contribute to an air quality standard exceedance. Such unchecked regulatory authority will chill investment by Oregon manufacturers, who will lack the ability to clearly identify DEQ's regulatory requirements.

DEQ's proposed rules eliminate agency accountability and remove longstanding procedural protections that constrain DEQ's ability to unliterally change a source's air permit.

DEQ justifies its proposed rule changes as a means to ensure that DEQ reviews construction proposals before a company proceeds with projects. However, DEQ seeks to remove the requirement mandating that DEQ must review air permit applications within 15 days of receipt—one of the few provisions in the rules that forces DEQ to act expeditiously.

Similarly, for decades DEQ's rules have protected permitted sources from DEQ unilaterally modifying a source's air permit. The rules do this by allowing the source the right to stay any DEQ modification until the source's objections are heard in a contested case hearing. DEQ proposes to eliminate the source's right to an automatic stay pending a contested hearing, thereby depriving a source of an important protection.

DEQ has neither justified the health or environmental need for the proposed rules, nor evaluated risks to public health that will result from it.

DEQ initially sought to justify its proposal by referencing the need to protect Oregonians from violations of the National Ambient Air Quality Standards ("NAAQS"). DEQ's "Statement of Need" for the rulemaking justifies the rule by saying it "[a]llows [DEQ] more opportunities to review air quality modeling of emission increases…." However, that justification fails to acknowledge that DEQ's own analysis, established in an agency-issued memorandum dated March 7, 2022, did not identify any widespread NAAQS compliance problem in Oregon. Instead, DEQ's analysis concluded that in the vast majority of cases, "the results don't indicate there were exceedances of the NAAQS, only that more refined modeling would be required." So, while DEQ's proposed rule will require manufacturers to conduct significantly more and expensive modeling, DEQ does not expect there to be any real issues identified.

Further, the proposed rules may not redress NAAQS exceedances, but will raise costs for Oregon manufacturers. Performing multipollutant NAAQS modeling as part of every permit renewal and modification will require substantial resources from regulated sources and DEQ. DEQ is already years behind in renewing many of the standard

ACDPs and Title V permits, and this proposal will undoubtedly exacerbate the existing backlog. NAAQS modeling may be appropriate in certain circumstances, but the scant state and source resources should not be consumed with the requirement that every existing source with an air permit must prove a negative each time its permit comes up for renewal. The burden of this requirement is disproportionate to the prospective benefit, making it more difficult for facilities to operate effectively in this state without meaningfully protecting human health and air quality.

These rule revisions, as presented, will require more permit modifications, increase permit engineer workload, and reduce permitting efficiencies than the current process without any evident environmental or public health benefit. We are concerned that, given to the fast pace of this rulemaking, DEQ has not carefully considered the costs and benefits of the various changes being proposed. OMC respectfully requests that DEQ re-notice the proposed rules after considering these comments, and those of the larger Coalition.

OMC appreciates the opportunity to submit these written comments for the rulemaking record and looks forward to future engagement with DEQ on this important issue.

August 1, 2022

Oregon Department of Environmental Quality
Attention: Karen Williams and Jill Inahara

BY EMAIL TO: 2022.aqpermits@deq.oregon.gov

RE: Comments on Proposed Revisions to Air Permitting Rules

Dear DEQ staff:

We appreciate DEQ's work to overhaul Oregon's air permitting rules and the opportunity to comment on the proposed revisions. Overall, the revised rules represent a necessary—and long overdue—first step towards reducing emissions in overburdened communities and protecting public health. Oregon's existing rules, which provide facilities with significant flexibility, have failed to produce the emissions reductions that Oregon needs and have prevented DEQ from appropriately regulating existing facilities. As DEQ has acknowledged, modeling shows that existing major and minor sources in Oregon can cause violations of National Ambient Air Quality Standards (NAAQS) and harm communities without ever exceeding their permit limits under the current air permitting rules.

The revised rules strengthen Oregon's air permitting program in several ways, including:

- Reducing the unnecessary overhead in permit limits
- Allowing DEQ to analyze more existing facilities' impact on air quality
- Providing DEQ with the authority to conduct technology reviews to ensure that facilities are not using out-of-date or ineffective pollution controls

Although the rule revisions deliver important improvements to Oregon's air permitting program, DEQ still has a long way to go to ensure that its actions advance environmental justice and protect those communities that have historically borne the brunt of pollution. While we understand DEQ is pursuing initiatives outside of this rulemaking to address environmental injustices, we urge the agency to wholly embrace both the letter and spirit of its environmental justice obligations in this rulemaking. ORS 182.545 directs DEQ to consider the effects of its decisions on environmental justice issues and provide "meaningful involvement" in those decisions for affected communities.

To give effect to this legislative directive and protect disenfranchised communities, we strongly encourage DEQ to adopt additional rule language that:

- Ensures that environmental justice considerations actually inform and direct the agency's permitting decisions
- Provides a clear directive for the agency to reduce emissions wherever possible
- Facilitates more meaningful community engagement, educating the public about the permitting process and pollution sources that impact them, and allowing DEQ to take into account a community's lived-experiences as one of the factors that inform DEQ's permitting decisions

We applaud DEQ for taking this initial step to strengthen Oregon's air permitting program but urge the agency to do more outside of this rulemaking to ensure that public health is prioritized and protected, especially in overburdened communities.

I. SHIFT TO SOURCE-SPECIFIC ANNUAL PSELS AND NEW CONDITIONS TO LIMIT SHORT-TERM EMISSIONS

A. DEQ's Proposed Shift to Source-Specific PSELs Is Necessary and Appropriate.

We strongly support DEQ's proposal to eliminate the use of Generic PSELs for minor sources. *See* (Proposed) OAR 340-222-0041 (identifying new source-specific PSEL levels). Indeed, such a change is necessary to comply with the Clean Air Act and state and federal requirements to establish rules and permit conditions that will prevent sources from causing or contributing to a violation of an ambient air quality standard.[1] The Generic PSEL system allows

[1] *See* 42 U.S.C. § 7410 (requiring states to adopt a plan to implement, maintain, and enforce the primary and secondary NAAQS that includes "enforceable emission limitations and other control measures" to protect the NAAQS); ORS 468A.025(4)(c) (EQC must adopt "rules . . . to require controls necessary to achieve ambient air quality standards for any source that is a substantial cause of any exceedance or projected exceedance in the near future of NAAQS or visibility

emission increases up to the Significant Emissions Rate ("SER") without a permit modification or additional modeling.

As DEQ knows, and as we have pointed out in previous comments, the SERs that previously served as the threshold for taking a close look at emission increases were a poor proxy for significance and relied on outdated science. SERs were based only on annual emissions, and established decades prior to EPA's adoption of one-hour NAAQS for NOx and SO2 and prior to EPA's lowering of the 24-hour PM2.5 NAAQS. These newer short-term NAAQS protect against acute exposure to these pollutants—protection that the previously adopted NAAQS and SERs did not confer. Exceedances of the short-term NAAQS can and do occur at emission levels below the SERs. Further, the current SERs do not protect overburdened communities against the cumulative risk from aggregate exposure to air pollution.

To ensure compliance with all NAAQS, and protection of community health, DEQ must have the ability to evaluate emissions increases less than the SER. Eliminating the use of Generic PSELs will allow DEQ to require more frequent modeling from permitted facilities to more accurately assess NAAQS compliance.

In addition, eliminating Generic PSELs will provide greater protection and transparency for communities, and further DEQ's environmental justice goals. The current rules, which often permit sources at levels much higher than they can physically emit, authorize far more emissions in vulnerable communities than are necessary for regulated entities to operate. Further, these rules make it exceedingly difficult for community members to track actual emissions, while limiting opportunities for public notice and engagement when facilities increase emissions. Source-specific PSELs that more accurately reflect actual emissions will provide valuable information to communities, allowing for more informed engagement and more effective advocacy.

B. <u>Sources on Simple ACDPs Should Not Have the Option of a PSEL Set at the Source's Capacity to Emit.</u>

While we believe it is critical that DEQ begin using source-specific PSELs in place of Generic PSELs, DEQ should further strengthen its current permitting proposal. For permittees on Simple ACDPs, DEQ is proposing to give sources the choice between an annual PSEL set at the source's "capacity to emit" (CTE) or at its "potential to emit" (PTE). *See* (Proposed) OAR 340-222-0041(2). This proposal is contrary to the goals of the rulemaking. For many minor sources there is a significant difference between their capacity and potential to emit; by allowing the

requirements."); OAR 340-226-0140(1) (DEQ must establish permit requirements "to prevent violation of an ambient air quality standard caused or projected to be caused substantially by emissions from [a] source as determined by modeling, monitoring, or a combination thereof.").

CTE option, DEQ is proposing a system where sources would continue to be permitted at levels which they cannot reasonably emit. Permitting facilities at capacity would significantly reduce the opportunities for DEQ to assess short-term NAAQs compliance, and limit opportunities for the public to meaningfully engage. Ultimately, permitting sources on Simple permits at capacity would maintain a system that prioritizes industry flexibility over public health and transparency.

By contrast, we applaud DEQ's decision to set annual PSELs at PTE (or netting basis) for all sources on Standard and Title V Permits. *See* (Proposed) OAR 340-222-0041(3). We believe it would be much more reasonable, and more in line with the rulemaking's goals, to use a similar strategy for Simple ACDP sources by establishing source-specific PSELs for all such sources at the PTE level. The regulatory definition of PTE—essentially, the maximum allowable emissions from a facility taking into account enforceable physical or operational limitations—sets an emissions level that should be appropriate for all facilities on Simple permits. If such a facility wishes to increase its PTE, it is eminently reasonable to first require a permit modification, NAAQS modeling, and public notice and engagement opportunities.

On a more fundamental level, allowing sources on Simple permits the choice of being permitted at CTE is not consistent with an air permitting program that values and prioritizes community health. DEQ has a critical opportunity in this rulemaking to take an important first step in resetting the permitting program to emphasize community protection, transparency, and environmental justice. Permitting facilities at capacity—which, of course, is a level that many facilities could never physically emit—gives facilities unnecessary, extreme flexibility, while taking away critical opportunities for both DEQ and the public to assess facility emissions and health impacts. We urge DEQ to re-think this proposal and eliminate the option of PSELs for Simple ACDPs set at capacity to emit.

C. Additional Permit Conditions to Limit Short-Term Emissions

In addition to DEQ's shift away from Generic PSELs in Simple and Standard ACDPs, we support DEQ's proposal to include additional permit limits beyond the annual PSEL to ensure sources are operating within the parameters used to model and demonstrate NAAQS compliance. *See* (Proposed) OAR 340-216-0064(3)(c) (Simple permits); (Proposed) OAR 340-216-0066(3)(c) (Standard permits). Adding additional permit limits on inputs used to calculate the PSEL will provide DEQ with the necessary means to enforce the NAAQS. As DEQ acknowledged during the rulemaking process, annual tons per year limits on emissions are insufficient to ensure that short-term NAAQS are not exceeded. The same annual emissions from a source can have a very different impact on frontline communities depending on the rate of those emissions. As such, it is critical that DEQ have the authority to include additional permit limits to ensure NAAQS compliance and to protect community health from dangerous short-term pollution spikes.

II. TECHNOLOGY REVIEW AND AIR QUALITY ANALYSIS TO PREVENT NAAQS EXCEEDANCES

We applaud DEQ for promulgating rules to allow the agency to take a closer look at minor sources of pollution through the creation of a new Minor New Source Review (NSR) program, which requires air quality analysis and technology review for new minor sources emitting above the newly established Minor Source Significant Emission Rate (SER) and for existing minor sources increasing their emissions by an amount above the Minor Source SER.

A. Applicability of Minor New Source Review (NSR)

While we support DEQ's proposal to apply Minor NSR to Type 3 Notice to Construct applications and permit applications and permit modifications presenting an equivalent emissions increase, we believe that more minor sources should undergo Minor NSR. We encourage DEQ to require every existing minor source to undergo Minor NSR at least once.

DEQ should not exempt "[a]n individual device or activity that emits CO, VOC, or fugitive particulate matter" from Minor NSR. Proposed OAR 340-224-0300(1)(c). While we understand that the rules are aimed at preventing NAAQS exceedances, DEQ's obligation to protect air quality and public health, particularly for sensitive populations, is much broader. Moreover, if a device emits a covered criteria pollutant or HAP, it should not be exempted from Minor NSR altogether simply because it also emits CO, VOC, or fugitive PM. But as drafted, the rules would appear to put such devices wholly outside the scope of Minor NSR. We urge DEQ to correct what we hope is a drafting error.

B. Minor Source Significant Emission Rate (SER)

We strongly support the proposed rule change to create a new, lower significant emission rate (SER) for minor sources that triggers a requirement for minor sources to undergo Minor New Source Review and the air quality analysis and technology review that the program involves.

Prior to this rule change, Oregon's air permit rules allowed regulated sources, including minor sources, to increase their emissions up to the previous significant emission rates—which are outdated (*see supra* § I(A))—without a permit modification and without performing air quality analysis to determine what impact the increase would have on the National Ambient Air Quality Standards (NAAQS).

We support Option #1 for what the Minor Source SER should be:

- NOx: 5 tpy
- PM10: 2 tpy
- Direct PM2.5: 2 tpy
- SO2: 5 tpy[2]

Even relatively small increases in air pollution can have a devastating cumulative impact on already overburdened environmental justice communities. The Minor Source Significant Emission Rates in Option #1 will best equip DEQ to protect ambient air quality and community health against acute exposure to spikes in pollution by allowing DEQ to evaluate smaller but potentially significant emissions increases.

Option #1 for the Minor Source SERs is also a good threshold for requiring minor sources to conduct a technology review. We support the rule changes that will require sources increasing emissions above these levels to analyze the available technology to ensure that sources seize all available opportunities to mitigate the impact of the modification on the public and the environment. *See infra* § II(D) (Minor Source Emission Reduction Technology, MSERT). The Option #1 threshold for requiring minor sources to conduct a technology review would make Oregon one of the leading states in capitalizing on new technology.[3]

C. Air Quality Analysis

We support the rule changes that will result in more sources doing air quality analysis (modeling). It is critical for DEQ to get a more accurate picture of emissions from Oregon's existing sources. As DEQ has acknowledged, modeling shows that it would be possible under the existing rules for a minor source to release pollution that would cause a NAAQS exceedance without having to conduct any air quality analysis.

For this reason, we support the provisions in (Proposed) OAR 340-216-0040 requiring all applicants for new or renewed air permits to submit air quality analysis to demonstrate that the source's emissions will not cause or contribute to an exceedance of an ambient air quality standard.

[2] While we prefer Option #1, we would also like to note a typo in Option #2: the SO2 limit in Option #2 in the rules is written as 510 tons per year rather than 10 tons per year.

[3] Massachusetts requires the best available control technology (BACT) for all proposed modifications. *See* 310 CMR 7.02(4) (Limited Plan Application (LPA) for modifications that would increase emissions by less than 10 tons per year); 310 CMR 7.02(5) (Comprehensive Plan Application (CPA) for modifications that would increase emissions by 10 tons per year or more); 310 CMR 7.02(8)(a)(2) ("BACT is required of all LPA approvals and CPA approvals.").

We also support the addition of language giving DEQ the authority to ask any source for an air quality analysis if DEQ determines that such information is reasonably required to regulate sources, and to set a reasonable date certain by which the source must provide the analysis. *See* (Proposed) OAR 340-214-0110.

We likewise support the new language clarifying that DEQ may use monitoring or modeling or require a source to conduct monitoring or modeling to determine whether the source's emissions will cause or contribute to a NAAQS exceedance or violation of any ambient air quality standard. *See* (Proposed) OAR 340-226-0140(1).

D. Minor Source Emissions Reduction Technology (MSERT)

We support the proposal to require new minor sources emitting pollution above the Minor Source SER and existing minor sources planning to increase their emissions above the Minor Source SER to perform a technology review and install Minor Source Emission Reduction Technology (MSERT). But we urge DEQ to give the technological requirements more teeth.

DEQ should narrow the exceptions that allow minor sources to decline to install the best available technology. The rules contain many undefined terms ("feasible," "economic impacts," "cost-effectiveness") that could be interpreted so broadly that they would render the MSERT requirement meaningless.[4] DEQ should either define these terms narrowly or remove them altogether from the proposed rules.

We also support the concept of Presumptive MSERT, which allows a source to be spared the expense of conducting a facility-specific technology review by choosing instead to install a pre-approved piece of pollution control technology. We support the changes to the proposed rules to specify the control efficiencies and chemical content of the technologies on the Presumptive MSERT list. As we requested in our last set of comments during the Rulemaking Advisory Committee process, some of these requirements do not represent the best available technology and should be tightened.

Specifically, we are concerned that the phrase "collection of all equipment exhaust" to describe the baghouse technology is not sufficiently specific. To meet Presumptive MSERT, a baghouse should have to satisfy "permanent total enclosure meeting the performance specifications of EPA's Method 204." In addition, selective catalytic reduction (SCR) for NOx should require a control efficiency of 95%, not 80%.

[4] We appreciate the renaming of the minor source technology review program to avoid inaccurately referring to it as requiring the "best" available technology, given the number of exceptions in the current rules that allow sources to avoid installing the best technology on the market.

III. NOTICE TO CONSTRUCT RULES

The additional proposed revisions to the Notice to Construct Rules should streamline DEQ's process for approving proposed modifications to existing sources while also allowing the agency to undertake important review of proposed modifications that could increase pollution to a meaningful extent.

A. Type 1 NCs

We appreciate the changes to the last draft of the proposed rules that improve the clarity of the Type 1 NC rules.

We support the concept of a "notice and go" list streamlining the approval process for existing sources to make modifications involving technology that categorically does not produce significant emissions. However, the proposed rules could be interpreted to greenlight several types of technology that could actually contribute to exceedances of ambient air quality standards or endanger fenceline communities.

DEQ should more carefully define some of the items on the "notice and go" list so that they are not interpreted unduly broadly to encompass high-emitting technologies or outdated technologies, which deserve a closer look by DEQ, rather than automatic approval:

- **"Replacement of process control equipment" (Proposed OAR 340-210-0225(1)(b)(E)).** Because "process control equipment" is undefined, it is unclear what this category is intended to include. DEQ should clarify that "process control equipment" does not include "air pollution control devices," but rather, only "inherent process equipment that is used to destroy or remove a regulated pollutant prior to discharge to the atmosphere." *See* OAR 340-200-0020(10). If a regulated source has to replace an air pollution control device, DEQ should require a technological review to ensure that the source seizes the opportunity to improve its pollution control if there are alternative technologies available that would deliver greater emissions reductions.
- **"Equipment used for hydraulic or hydrostatic testing" (Proposed OAR 340-210-0225(1)(b)(T)).** Some hydraulic fluids are not water-based, and can cause troubling pollution. DEQ should narrow the category of non-water-based hydraulic fluids included on the notice-and-go list based on vapor pressure.
- **"Storage tanks [. . .] where there is no generation of objectionable odor or airborne particulate matter" (Proposed OAR 340-210-0225(1)(b)(U)).** DEQ should clarify that this category also excludes equipment that generates toxic air emissions by adding the

phrase "or toxic air pollutants listed in OAR chapter 340, division 247" to the end of the sentence.

- **"Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons" (Proposed OAR 340-210-0225(1)(b)(V)).** This category should be limited by annual throughput as well as vessel capacity. Even smaller vessels can generate considerable emissions if the materials are being frequently loaded and unloaded.
- **"Equipment used exclusively for conveying and storage of plastic pellets" (Proposed OAR 340-210-0225(1)(b)(BB)).** "Plastic pellets" is a broad category that could include materials that degrade easily and generate significant dust and fugitive PM emissions. DEQ should define this category to include only plastic pellets that don't break down or degrade and are only used for indoor manufacturing and should add limits on size and throughput.

B. Type 2

We support making the Minor Source SER the dividing line between Type 3 NCs, which trigger Minor Source NSR, and Type 2. *See supra* § II(B) (Minor Source SER).

C. Type 3

We support requiring a Type 3 NC, as opposed to a Type 1 or Type 2, for any proposed modification involving a change in the source's NAICS/SIC code change. A change in the source's activities or purpose is potentially significant enough to warrant taking a close look at the facility.

Existing sources across the country are pivoting to new activities with very different environmental implications. For example, cryptocurrency mining operations are buying up all kinds of existing industrial sources to convert them to do obscenely energy-intensive cryptocurrency mining, with little benefit to society.[5] This kind of pivot should not go unexamined by DEQ.

IV. OTHER RULES RELATED TO PERMITS AND NOTICE TO CONSTRUCT

A. Expiration Dates

[5] Paul Roberts, *This Is What Happens When Bitcoin Miners Take Over Your Town*, Politico, Mar./Apr. 2018, https://www.politico.com/magazine/story/2018/03/09/bitcoin-mining-energy-prices-smalltown-feature-217230/ (describing the trend of industrial sources being repurposed for cryptocurrency mining).

We support DEQ's proposal to maintain a maximum ten-year duration for Basic and General ACDPs, while extending the maximum duration for Simple ACDPs to ten years. *See* (Proposed) OAR 340-216-0056(4)(d); (Proposed) OAR 340-216-0060(1)(b)(D); (Proposed) OAR 340-216-0064(3)(e). DEQ originally proposed to issue permits without expiration dates to sources in these categories—a proposal we strongly opposed. DEQ's explanation for considering these "forever permits" rested largely on the assumption that most facilities change little between permit issuance and renewal. However, this assumption failed to account for external factors such as:

- Increases in ambient concentrations of pollution around the source due to other sources of pollution
- Changes in legal standards (e.g., NAAQS or HAPs)
- Zoning changes or residential development near the permitted facility, making the emissions more of a threat to public health
- New scientific developments that could change the understanding of pollution impacts

Because of these potential circumstantial changes in and around permitted facilities, it is critical that Basic, General, and Simple ACDPs include reasonable expiration dates, to ensure DEQ and the public have regular opportunities to assess a source's activities and impacts. DEQ's proposed expiration periods for these permits are sensible.

B. DEQ Authority to Require a Different Permit Type

We support the proposed rule authorizing DEQ to determine that a source is ineligible for an otherwise applicable ACDP and to require a different type of permit. *See* (Proposed) OAR 340-216-0025(7). The current and proposed rules that sort sources into permit categories do not account for the fact that other features of a particular source—such as its proximity to environmental justice communities (some of which may be cumulatively impacted by multiple emissions sources) or unique aspects of its operations—may mean that it presents a greater risk than other similar industrial sources. We support DEQ's proposal to give the agency discretion to take a closer look at sources that may pose an unusually heightened risk to public health or welfare based on a clear set of criteria, and to require such sources to obtain a higher-level permit if warranted. DEQ's proposed approach is a sensible way to address outliers within source categories and to ensure that the public is adequately informed and protected.

However, it is not abundantly clear to us whether DEQ intends this proposed rule to give DEQ discretion to *downgrade* a source's permit (allowing a source to use a Simple permit instead of a Standard, for example) based on the same identified factors. We would oppose giving DEQ that authority, as we believe the rules specifying which types of sources must obtain each kind of permit represent the base level of risk posed by each source category. DEQ should

clarify that this rule authorizes DEQ only to require a higher-level permit than the base permit for which an applicant qualifies.

We also urge DEQ to be transparent about its decision-making, and to post on its website a short, written statement for each source explaining why the source was required to obtain the type of permit DEQ decided it should hold. This will help communities—particularly those overburdened by air pollution—understand the ways in which DEQ is exercising its discretion in regulating pollution sources.

C. LUCS or Comparable Analysis

We support DEQ's proposal to require applicants for certain permits and notices to construct to provide a Land Use Compatibility Statement (LUCS) or, in instances where the local planning jurisdiction declines to provide a LUCS determination, an independent analysis demonstrating that the application or notice complies with statewide planning goals and the relevant comprehensive plan. *See* (Proposed) OAR 340-210-0230(1)(o)(B) (Type 1 and 2 NCs); (Proposed) OAR 340-216-0040(1)(a)(M)(ii) (New ACDPs); (Proposed) OAR 340-218-040 (Title V Permits). Such an analysis is essential to safeguarding the health and welfare of Oregon communities, and should be required even when the local jurisdiction declines to make the determination.

D. Requirement to Provide Information Reported Through the Toxics Release Inventory Program

We support the proposed rule requiring applicants for new ACDPs and Title V permits to provide, when applicable, the most recent information reported through EPA's Toxics Release Inventory program. *See* (Proposed) OAR 340-216-0040(1)(A)(n); (Proposed) OAR 340-218-0040(3)9M). This information will support more informed decision-making and analysis by both DEQ and the public.

E. Requirement to Construct in Accordance with Approved Plans

We support the proposed requirement that permittees construct and operate their facility in accordance with approved plans and specifications submitted in their application. *See* (Proposed) OAR 340-216-0020. The approval process would be rendered meaningless if sources were not bound to construct and operate as approved by DEQ. It is important that this be made explicit in these rules, and that DEQ be given authority to bring appropriate enforcement action when this rule is violated.

F. Prohibition on Violating Permit Conditions

We support the proposed clarification that an owner or operator of a source may not violate any conditions in that source's ACDP. *See* (Proposed) OAR 340-216-0020(8). We applaud DEQ for taking this step to make enforcement of Oregon's air pollution laws more simple and straightforward.

G. Short-Term Activity ACDPs

We support DEQ's proposal to expand the Short-Term Activity ACDP categories to allow DEQ to regulate some additional types of planned short-term activities. *See* (Proposed) OAR 340-216-0054(1). However, we urge DEQ to modify the rules to avoid unintended results. Specifically, the rules should make clear that emissions authorized by a Short-Term Activity ACDP count towards a source's PSEL, and that a Short-Term Activity ACDP cannot be granted if the short-term emissions would increase an existing source's emissions above its PSEL.

H. Expanded Grounds for Terminating a Permit or Construction Approval

We support DEQ's proposal to expand the grounds under which a permit will be terminated, to include failure to commence construction within 18 months of approval. *See* (Proposed) OAR 340-216-0082(2)(e). We further support the proposed rule terminating construction approval when construction is not commenced within 18 months or an alternative DEQ deadline, when construction is discontinued for a period of 18 months or more, or when construction is not completed within 18 months of the anticipated date of construction completion in permittee's application. *See* (Proposed) OAR 340-216-0082(2)(e)(A). Circumstances can change significantly within an 18-month period, and it is reasonable in these situations to require a permittee to re-apply for construction approval after that time so DEQ and the public can perform an up-to-date assessment of air quality impacts and public health risks.

V. LIMITING EXCESS EMISSIONS

We support DEQ's proposal requiring a source to reduce or cease operations immediately when an excess emissions event occurs unless specified circumstances are present. *See* (Proposed) OAR 340-214-0330. The rules released for public comment are drafted more clearly than a first draft released during the rulemaking process, and successfully address a significant issue in Oregon's current regulations relating to excess emissions. Specifically, Oregon's current rules plainly contemplate a source operating for up to 48 hours after excess emissions are identified. OAR 340-214-0330(3) ("If there is an on-going period of excess emissions, the owner or operator must cease operation of the equipment or facility no later than 48 hours after the beginning of the excess emission period, if the condition causing the emissions is not corrected within that time."). And during its Rulemaking Advisory Committee presentation on this issue,

DEQ identified instances where sources have pointed to this regulatory language as a defense against enforcement actions. Clearly, it is important to modify this regulatory language to protect communities from ongoing periods of excess pollution, and to clarify the regulated community's obligations during these events.

The default obligation for facilities in these circumstances should be shifted, along the lines proposed by DEQ. Under the current rules, DEQ has the *authority* to require immediate shutdown. OAR 340-214-0030(2). But absent such an order, facilities may continue operating—and exceeding permit limitations—for up to 48 hours. Given the potential health and environmental risks posed by these events, facilities should not be authorized to continue operating unless and until receiving a contrary order from DEQ. Instead, the default required action in these instances should be for facilities to cease or reduce operating *immediately*,[6] unless DEQ explicitly approves continued operations pursuant to narrowly defined exceptions. DEQ's proposed changes to OAR 340-214-0330(2) successfully address this important issue.

VI. MISCELLANEOUS DRAFTING ERRORS

Below, we highlight several apparent drafting errors in the proposed rules:

- (Proposed) OAR 340-225-0030(1) should have a period at the end of the sentence, rather than a semicolon
- (Proposed) OAR 340-210-0225(3)(b) should begin "The construction would not result in an increase…"
- (Proposed) OAR 340-216-0060(3)(b), listing the fees for General ACDP sources, is missing subsection (W)
- In (Proposed) OAR 340-216-0040(2), there are two subsection (a)'s

VII. DEQ SHOULD INCORPORATE ADDITIONAL RULE LANGUAGE TO ADVANCE ENVIRONMENTAL JUSTICE

We are disappointed that the proposed revised rules do not contain provisions that would expand community engagement in the air permitting process, require DEQ to incorporate an environmental justice analysis into its decision-making, or reduce emissions in overburdened communities. Adding these provisions would give effect to the legislature's environmental justice directive to DEQ, *see* ORS 182.545, and the agency's stated commitment to ensuring that Oregon's air permitting rules address environmental injustices.

[6] In the context of Oregon's air quality regulations, "immediately" is defined as "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." OAR 340-200-0020(77).

A. Facilitate and encourage meaningful community engagement

DEQ should include additional provisions in its rules that facilitate and encourage impacted communities' engagement with DEQ's air permitting work, including:

- Setting requirements for early and continuous outreach to communities that will be affected by DEQ's permitting decisions so that the public can adequately review permits, provide informed feedback and suggestions, and have their questions and concerns addressed by the agency
- Requiring sources to conduct an environmental justice analysis
- Making available plain language explanations of permitting terms and the technical information in airpermits so that the information is accessible to the public
- Directing DEQ to report back to communities within a set timeframe on how their involvement shaped and informed DEQ's permitting decisions

Meaningful community engagement is essential to advancing environmental justice in Oregon's air permitting program because it provides communities with an avenue to understand the potential consequences of permitting decisions, to advocate for community health and safety, and to shape DEQ's decisions. DEQ has a statutory obligation to ensure that its rules facilitate public outreach and actively encourage meaningful community engagement from impacted communities. ORS 182.545(2), (3), (4)(a). ORS 182.545 makes clear that DEQ must do more to provide for meaningful community engagement than offer public comment periods and opportunities to sit on rule advisory committees.

B. Consider the Environmental Justice Impacts of Permitting Decisions

We urge DEQ to add clear rule language that establishes a framework and requirement for environmental justice considerations to direct the agency's permitting decisions so that communities are not further burdened by air pollution. DEQ's air permitting decisions should aim to eliminate the disparities that have led to some of Oregon's communities disproportionately carrying the burden of cumulative impacts of the pollution coming from DEQ-regulated facilities. Communities overburdened by air pollution need reductions in current and future emissions, and those much needed, and long-overdue reductions will likely not happen without rule language integrating environmental justice into DEQ's permitting decisions.

The proposed rule revisions provide DEQ with significant discretion in deciding the type of permit facilities must acquire, requiring additional information or analysis in connection with a permit application or Notice to Construct application, attaching additional permit conditions, and approving or disapproving permits. While it is permissible under current rules, and indeed statutorily required, for DEQ to use environmental justice considerations to inform how the agency exercises its discretion in permitting decisions, clear rule language will ensure that environmental justice is factored into DEQ's permitting decision framework.

The legislature provided plain, explicit instructions that, "[i]n making a determination whether and how to act, [a natural resources agency must] consider the effects of the action on environmental justice issues." ORS 182.545(1); *see also* S. Con. Res. 17 (Or. 2021) (declaring the Legislative Assembly's intent that ORS 182.545 "apply to all state agencies and all policy decisions"). There is no basis for reading this broad directive as being limited to the agency's decisions about what rules to promulgate; by its plain language, it applies to all "determination[s] whether and how to act[.]" *Id.*

To give effect to this legislative directive, DEQ should add a new provision to its air permitting rules that tracks the language of ORS 182.545: **"In exercising discretion conferred by these rules related to air quality and permitting, DEQ will consider the effects of its actions on environmental justice issues."**

To help build public trust and understanding of agency decisionmaking, we also strongly encourage DEQ to incorporate rules that provide transparency as to how environmental justice analysis informs DEQ's permitting decisions. DEQ actions in other contexts underscore why this transparency is important. For example, in the Regional Haze context, DEQ drafted rules that provided it with strong tools to require the sources in environmental justice communities to install pollution control technology and reduce emissions. DEQ asked for and received community support for those rules under the pretense that the agency would use them to achieve meaningful pollution reductions, including at Owens-Brockway, a Portland facility with a history of noncompliance and a massive polluter in an environmental justice community. But DEQ ultimately opted not to use these new tools. Instead of requiring Owens-Brockway to install pollution controls, DEQ exercised its discretion to offer the facility reduced plant site emissions limits that resulted in no actual emissions reductions as an alternative means of complying with the Regional Haze program. *See generally* Oregon Regional Haze State Implementation Plan, Feb. 3, 2022, § 3.6.1; *id.* § 3.7.5.1; Earthjustice, *Owens-Brockway: An Environmental Justice Problem in Portland* (Sep. 2021), https://earthjustice.org/sites/default/files/files/2021.09.23_portland_air_pollution.pdf. Despite claiming to have done an environmental justice analysis as part of its development of Oregon's Regional Haze State Implementation Plan, DEQ's environmental justice analysis bore no discernable relationship to its decision-making around facilities like Owens-Brockway, resulting in no actual emissions reductions for environmental justice communities. In its current proposed rules, DEQ must explicitly connect its environmental justice analyses to its air permitting decisions.

C. Seek Additional Funding for the Necessary Resources to Advance Environmental Justice in Oregon's Air Permitting Program

We understand that DEQ's budget and need for legislative authorization for new positions constrain the agency's ability to move forward on critical environmental justice

initiatives like hiring staff to ensure meaningful community engagement throughout the permitting process.

If additional funds are needed to carry out DEQ's duty to encourage public participation, to consider environmental justice issues, and to study the effect of DEQ's decisions on communities traditionally underrepresented in public processes, *see* ORS 182.545(4), we urge DEQ to seek the legislative authorization and funding necessary to fulfill its environmental justice obligations.

We would happily support DEQ's request for additional funding to carry out this important work.

CONCLUSION

Thank you in advance for your consideration of our comments. We look forward to continuing to work with you to protect Oregon's air and all who breathe it.

Sincerely,

[*listed in alphabetical order by organization*]

Lisa Arkin, *Executive Director*
Beyond Toxics

Gregory Sotir, *Coordinator*
Cully Air Action Team (CAAT)

Molly Tack-Hooper, *Supervising Senior Attorney*
Ashley Bennett, *Senior Associate*
Earthjustice

Mary Peveto, *Executive Director*
Neighbors for Clean Air

Jonah Sandford, *Executive Director*
Northwest Environmental Defense Center

Jamie Pang (South), *Environmental Health Program Director*
Oregon Environmental Council

Oriana Magnera, *Energy, Climate, and Transportation Manager*
Verde